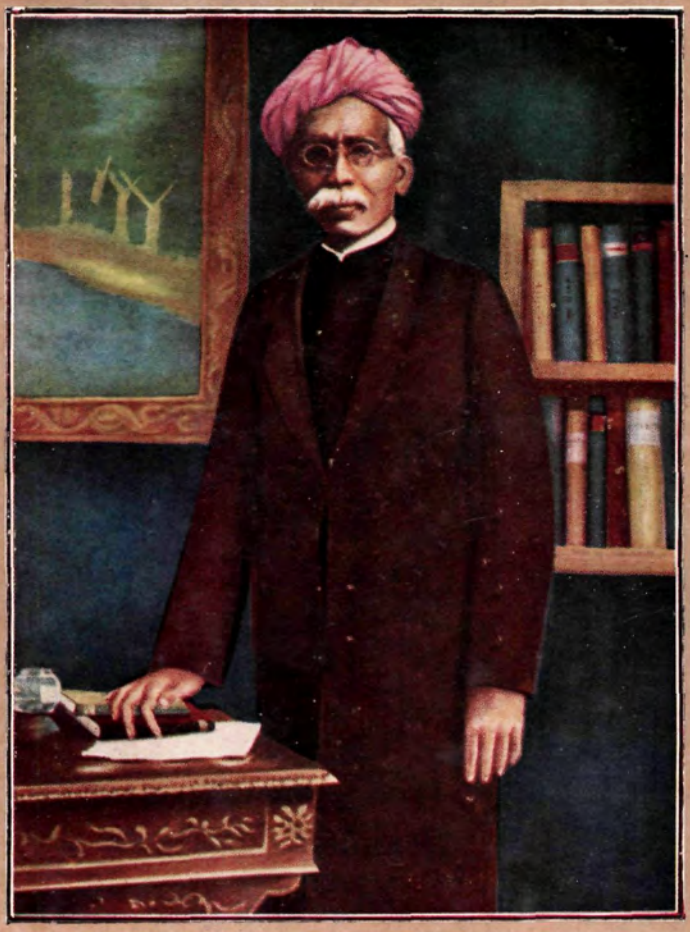


MADHUSUDAN DAS
THE LEGISLATOR
(His Speeches)

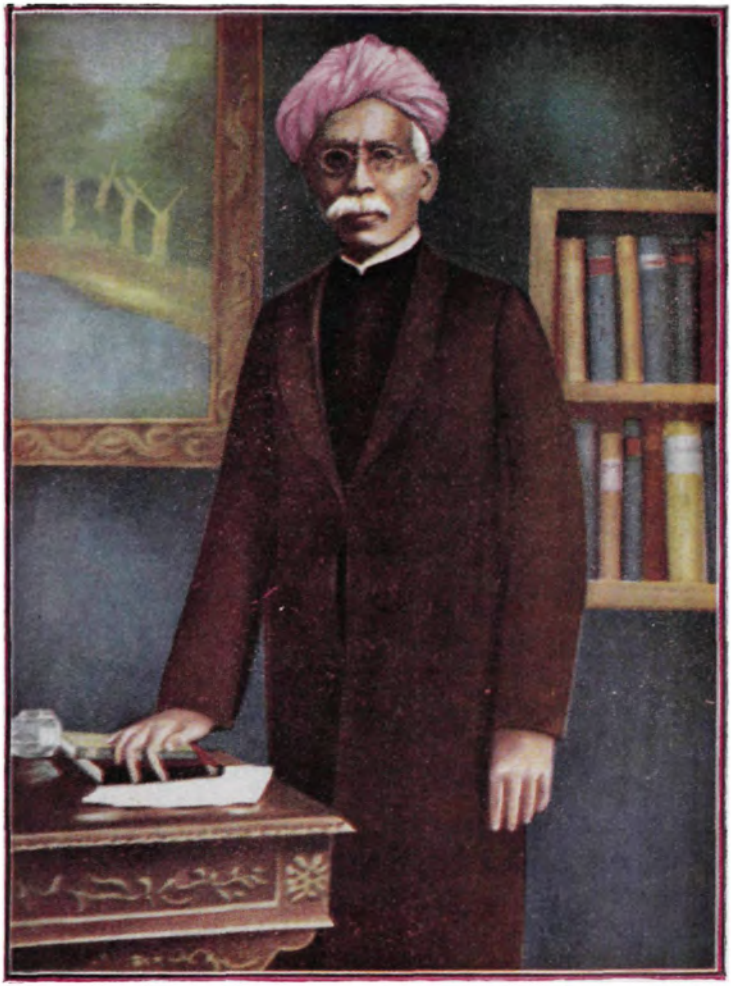
Editors

DR. N. K. SAHU & DR. P. K. MISHRA

Digitized by srujanika@gmail.com

MADHUSUDAN DAS (b. 1848, d. 1934) was the Founding Father of Oriya nationalism and the Maker of modern Orissa. He provided leadership to the Oriya-speaking people during the most crucial and eventful period of their history. He was a Member of the Lieutenant Governor's Council in Bengal, in Bihar and Orissa and the Imperial Council. In these Legislatures he projected the numerous grievances of his countrymen seeking remedial measures and justice from the colonial Government. For a correct assessment of his career and correct approach to the history of the period, this book which contains his speeches as a Legislator and a Minister of Local Self-Government, is an invaluable source.

Digitized by srujanika@gmail.com



MADHUSUDAN DAS, THE LEGISLATOR

Digitized by srujanika@gmail.com

MADHUSUDAN DAS

THE LEGISLATOR

(His Speeches)

Editors

DR. N. K. SAHU
Vice-Chancellor, Sambalpur University

and

DR. P. K. MISHRA
Reader, Post-graduate Department of History
Sambalpur University

Published by

PRAGATI UTKAL SANGHA
B/9, Fakirmohan Nagar (Sector 7)
Rourkela-3, Orissa

Digitized by srujanika@gmail.com

Digitized by srujanika@gmail.com

PREFACE

Madhusudan Das (1848-1934) lived during the most crucial as well as eventful period of Orissan history. His father Raghunath Das, a Persian knowing pleader in the Cuttack Court, provided him elementary education in the village school at Satyabhamapur. After passing the Entrance examination from Cuttack, Madhusudan became a teacher at Balasore town in 1865. Orissa then had no college and the aspirants for higher education had to go to Calcutta where education was quite expensive. In 1866 Madhusudan against his father's will sailed for Calcutta in search of collegiate education which was considered essential requisite for a distinguished social status. He stayed there for long 15 years, obtained M.A. and B.L. degrees of the Calcutta University through determined efforts and returned to Orissa in 1881 to start an independent career as Legal Practitioner at Cuttack. Within a short time he established himself as the foremost Advocate of the town, capable of handling complicated and difficult cases concerning Puri temple, and robbery at Mansingpatna, etc.

Though Madhusudan was absent in Orissa during the great famine of 1866, he was aware of its serious consequences. He had observed how his people were groping in darkness due to lack of English education and administrative apathy. Notwithstanding the lessons of 1866, the Government did nothing to provide minimum facilities for communication in the Division. Roads were in a primitive stage; bridges and railways were totally absent. The language controversy of the 1860s had also not escaped his notice. Orissa was ruled by the educated Bengalees and the people were exploited by the Bengali landlords. Orissa had no separate identity of her own — she was a mere appendix to the political fabric of the Bengal Presidency. What was more painful for Madhusudan was the political vivisection of his motherland. The districts of Balasore, Cuttack and Puri which formed the Orissa Division were administered from Calcutta through a Commissioner posted at Cuttack. In the south, Ganjam and Koraput region was ruled from Madras as part of the Madras Presidency and the western portion, i.e. Sambalpur and the adjoining tracts formed part of the Central Provinces

Digitized by srujanika@gmail.com

with headquarters at Nagpur. The Feudatory States had an altogether separate establishment. Thus the Oriya-speaking people were kept divided politically under the pretext of administrative convenience; their ancient culture, rich language and literature were in utter jeopardy. Language, the primary integrating force to hold together the politically divided Oriya community was under grave danger on account of the hostile activities of Bengali, Telugu and Hindi-speaking neighbours.

Madhusudan's appearance at the Cuttack Court heralded a new age in the history of Oriya nationalism. For the emerging Oriya elite class he became their natural choice for leadership, their rallying point. In order to organize the national life of Orissa, Madhusudan joined hands with Gouri Shankar Roy, the celebrated editor of Utkal Dipika and galvanized Orissa Association into more dynamic activities. In 1885 he became the Secretary of the Association and subsequently its President. The Association provided a forum for the articulation of thinking and aspiration of the Oriya elites besides expressing the grievances of the people. In November 1885 during the visit of Sir Richard Thompson, the Lieutenant Governor of Bengal, Madhusudan presented him a memorial which contained several demands, viz. extension of railways, spread of industries, industrial education and agricultural training, and the amalgamation of Ganjam and Sambalpur districts with Orissa.

In November 1888 when Sir Stewart Colvin Bayley, the Lieutenant Governor of Bengal, came on a visit to Cuttack, Madhusudan, as President of the Orissa Association, placed before the former the grievances of the Oriyas in the form of an Address of Welcome, in which the disadvantages due to the political dismemberment of the Oriya-speaking people were highlighted. To Madhusudan, administrative vivisection of the Oriya race was the greatest impediment against economic progress. Therefore, when Bayley dismissed the appeal for amalgamation of the Oriya tracts as 'ridiculous', Madhusudan in drawing his political programme accorded amalgamation issue highest priority.

The language agitation of Sambalpur in 1895 provided him with a long awaited opportunity to infuse among the scattered Oriya-speaking tracts the sense of cultural unity. He wrote series of articles in the Utkal Dipika on the "Banishment of

Digitized by srujanika@gmail.com

Oriya " and its various ramifications. In 1897 during his visit to London, Madhusudan tried to bring home the problems of Orissa among the British politicians through personal contacts and the booklet " Discontented India ". In 1900 he met Lord Curzon personally to apprise him the situation concerning the Oriya people and in December impressed upon the visiting Viceroy the glorious heritage of this ancient race. That his appeal to the British bureaucrats did not go in vain was evident in 1903 when Lord Curzon took a decisive step towards uniting the scattered Oriya tracts under Bengal administration.

At the turn of the century there appeared a controversy among the politically minded persons as to whether Orissa should be merged with the Central Provinces or continue under Bengal Presidency. Madhusudan led the group which favoured association with Bengal in view of the socio-cultural affinity and century-old political link between Bengal and Orissa. He neutralized the arguments of Rev. G. Howell and G. White and others who thought Orissa's interests would be served better in the Central Provinces. Madhusudan led a deputation to Mr. Krisna Govind Gupta, the Commissioner of Orissa, to impress upon him the desire of the Oriya community to be with Bengal, since Calcutta as the seat of administration, with the High Court and University was nearer than Nagpur and provided better employment opportunities. The Commissioner supported the views of Madhusudan. Consequently, in 1905 when Bengal was partitioned to reduce its stupendous territorial size, Orissa Divsion along with Sambalpur and the five adjacent Feudatory States of Kalahandi, Patna, Sonepur, Bamra and Rairakhol were kept under the administration of the Lieutenant-Governor of Bengal.

For his dedication to public service and involvement in the welfare of the people at large, the Government conferred upon Madhusudan the coveted title of C.I.E. (Companion of the Indian Empire) in January 1904. As reaction to this conferment he had stated with humility: " I saw the Bengal Chief Secretary of the time and begged to be relieved of an honour which would not sit kindly on me ".

As a nationalist, Madhusudan had established close liaison with the Indian National Congress hoping that the problems of

Digitized by srujanika@gmail.com

the Oriya community would be conveniently solved through the national forum. He was a moderate in his political ideals having faith in British sense of justice and the system of government. But in course of time he felt disillusioned with the Congress; to rejuvenate the Oriya race he preferred a smaller organization at the Provincial level and formed the Utkal Union Conference in 1903.

Thanks to the efforts of Madhusudan, Oriya nationalism had its real growth during the first two decades of the present century. In 1902 with the cooperation of Harihar Mardaraj Deo, the Raja of Khallikote, he organized the Ganjam National Conference as an experiment to launch a vigorous Provincial organization by drawing together representatives from the scattered Oriya tracts. In 1903, Rajendra Narayan Bhanj Deo, the Raja of Kanika, rendered valuable support to Madhusudan for organizing the Utkal Union Conference at Cuttack. The Utkal Union Conference was a non-political organization in which political discussion was a taboo. From 1903 to 1920 this non-political public forum under the stewardship of Madhusudan played the most significant role to inspire Oriya nationalism. Madhusudan deliberately kept it free from political discussions in order to bring together the rulers and the common men and inculcate in them a sense of unity. The membership of the Conference was thrown open to all Oriyas and those domiciled in Orissa, irrespective of their social status. It did not distinguish between British Orissa and Feudatory States, between officials and non-officials.

During 1903 and 1920 the Utkal Union Conference held sixteen annual sessions at different places, viz. Cuttack, Balasore, Puri, Berhampur, Sambalpur and Parlakimedi and passed several resolutions embracing a wide range of issues. In the inaugural session emphasis was laid upon (1) amalgamation of the Oriya-speaking tracts, (2) the development of industrial potentiality of Orissa and (3) the spread of education, general, technical and female. The President of this session also touched upon the necessity of social reforms, improvement of agriculture, livestock, exploitation of mineral resources and establishment of textile factories. In the subsequent sessions the Conference resolved upon the need for a separate university for Orissa, an Engineering School, expansion of facilities in Ravenshaw College, uniform educational policy and more funds for technical education and

Digitized by srujanika@gmail.com

female education. The Conference sponsored young and meritorious students to go outside for higher technical training, wanted encouragement for local crafts like weaving and filigree, teaching of Oriya in the schools of outlying Oriya tracts of Singhbhum, Phuljhar, and Ganjam and demanded the inclusion of an Oriya member in the Imperial Council. Other commendable proposals which the Conference wanted the Government to implement were: a Railway line joining Khurda with Sambalpur, revival of Salt industry, and extension of agricultural training in the Primary Schools.

Simultaneously agricultural and industrial exhibitions were also being organized to create among the people an industrial consciousness and a spirit of competition. Madhusudan strongly advocated the use of machines for weaving, rice hauling, tanning and processing of hides. His farsighted vision brought the Oriya youth and students community under the influence of the Utkal Union Conference where they received necessary political training. Thus a group of potential leaders like Gopabandhu Das, Nilakantha Das, Brajasunder Das and Laxminarayan Sahu were trained to ensure proper leadership for the Oriya-speaking people.

The Utkal Union Conference, therefore, projected the hopes and aspirations of the Oriya community and forged a strong sense of unity.

Madhusudan had a long and distinguished career as a legislator. He entered the Bengal Legislative Council on 14 March 1896, continued as a Member in 1897, 1900-1902 and 1908-11. After the creation of the province of Bihar and Orissa he served the newly formed Legislative Council for over a decade up to March 1923 when he resigned as Minister of Local Self-Government. During 1913-1916 he also functioned as a member of the Imperial Legislative Council, representing the province of Bihar and Orissa. For his wit and wisdom, unsparing criticism and sense of involvement he was revered by his colleagues and his friends used to nickname him as 'Cato'. The speeches that he had delivered in the course of debates and discussions have been collected from the Proceedings of the Legislative Councils and published in the present volume. They represent very many subjects ranging from "Oriyas in Government service" to "Orissa

Digitized by srujanika@gmail.com

Tenancy Bill" and from "Criminal Law Amendment" to "Indian Tariff Amendment" Bills.

The speeches of Madhusudan as a Legislator reveal his deep concern for the welfare of his people. He had moved the Government "to appoint qualified Oriyas as Munsifs", that "the interest of the Oriyas should not be overlooked", "they should get equal opportunity in Government service", demanded an Agricultural School to train the Oriya boys who came mostly from the family of agriculturists, for more feeder roads for the East Coast Railway, for allocating more funds for Orissa, and for opening a port. He demanded Railway links between Bhadrak and Chandbali, between Cuttack and Sambalpur, between Orissa and Patna.

A strong advocate of rapid industrialization, Madhusudan suggested the Government to explore the mineral resources of Orissa, impart industrial training to Oriya students, provide them with scholarships for training abroad, so that Orissa's economy could be substantially improved. He was firmly convinced that through industries alone the economic progress of Orissa could be ensured. As a practical man he pioneered industrial movement in Orissa, founded the Orissa Art Wares in 1897 and Utkal Tannery in 1905 investing millions of rupees. It was through his efforts that Biraj Mohan Senapati, Laxminarayan Sahu and Sarangdhar Das had gone outside Orissa and abroad for higher technical education. The Utkal Union Conference had a special committee to sponsor such projects.

True to the spirit of the Utkal Union Conference Madhusudan pioneered women's liberation and female education in this country. He rightly believed, "A nation cannot develop without the education of her women", and "we should endeavour with all our heart to spread women's education in order to develop the nation". His persistent effort to admit Miss Sudhangsubala Hazra into a legal career and the care he took to educate his adopted daughter Sailabala may be mentioned in the above context. That Madhusudan's residence is now being used as the premier educational institution for the girls of Orissa, is a fitting tribute to his cherished wish for female education.

Like the contemporary Congress leaders Gopal Krishna Gokhale, Dadabhai Naoroji, Surendra Nath Benerjea, Madhu-

Digitized by srujanika@gmail.com

sudan was a member of the moderate school, a firm believer in the gradual constitutional change in the country. Though he had dissociated himself from the Congress, he never lost faith upon the Government. The goal of amalgamation, he assured his country men, would be realized through the measures of the British Government. He therefore continued a sustained constitutional struggle, inside the Legislature as well as outside in appealing, and memorializing the Government to redress the long standing grievances of his people. In 1917 he led a delegation on behalf of the Utkal Union Conference to wait upon Lord Chelmsford and present him with a lengthy memorandum containing the just demand for amalgamating the scattered Oriya tracts.

Notwithstanding the outcome of such policy of moderation, Madhusudan's convictions remained unchanged. For this reason precisely, when the call of Gandhi to stage non-cooperation came in 1920, splitting the Utkal Union Conference at its Chakradharpur session into two groups, Madhusudan relinquished the leadership of the Conference in favour of Gopabandhu and the group of ultra-nationalists who gave Orissan politics a new orientation.

The 1920s formed a decade of great personal vicissitudes for Madhusudan. As per the Mont-ford Reforms he was appointed the Minister of Local Self-Government in the province of Bihar and Orissa, which brought him under sharp public criticism. He accepted the Ministership at a very crucial period of Indian nationalism when the non-cooperation movement had been launched in full swing and Indians were called upon to non-cooperate with the Government. Madhusudan became a much misunderstood man in Orissa where through meetings and brochures the Swaraj group expressed public wrath and disapproval against his official appointment. But Madhusudan remained undaunted — his moderate policy had convinced him that not by non-cooperation, but through cooperation with the Government the hopes of the Oriya-speaking people would be realized. The subsequent events proved that he was right in his conviction.

Madhusudan could not complete the full tenure as Minister. He wanted to serve as Minister of Local Self-Government on honorary basis, for which of course there was no constitutional provision. Since the Governor would not accept his request, Madhusudan tendered resignation from Ministership, as well as

Digitized by srujanika@gmail.com

from the Legislative Council. That put an end to his distinguished career as Legislator.

The Utkal Tannery on which Madhusudan had invested his fortune became a losing concern leading to liquidation and great financial hardship to its founder. His age, illness and political attitude prevented him to join the Gandhian movements. But his disciples plunged heartily into the national movement for freedom and kept burning the torch of political awakening in Orissa. A loyal group of moderates, viz. Braja Sunder Das, Rajendra Narayan Bhanj Deo, Sree Krushna Chandra Gajapati and Bhubanananda Das, fought incessantly for the amalgamation of Oriya-speaking tracts into a separate province. Their pressure yielded fruitful results in 1930 when the Orissa Sub-Committee headed by Major C. R. Attlee recommended the creation of a separate province for the Oriyas. In 1933 Madhusudan was taken in as a member of the Administrative Committee (the Hubback Committee) which framed the political and administrative structure of the proposed province. The recommendation of the Committee bears the indelible imprint of the political foresight of this great public leader, who breathed his last on 4 February 1934 at the ripe old age of 86. He had lived an eventful life, alone he had performed the roles of Mazzini and Cavour in building up a nation State for the scattered Oriya-speaking people.

We have not made an attempt here to write the biography of Madhusudan Das. The works of Nabakishore Das, Suryanarayan Dash, Surendra Mohanty and the large number of biographical accounts published in the Souvenir of Pragati Utkal Sangha have brought to light the multi-dimensional personality of Madhusudan. A scheme formulated in 1968 to write "Madhusudan Das and Modern Orissa" in twenty-one chapters could not materialize on account of several limitations. This scheme could have brought on record the significant role which Madhusudan had played in the social and political life of the Oriya-speaking people for over 50 years.

However, it is now proposed to publish two volumes under the auspices of Pragati Utkal Sangha, first bearing the title — "Madhusudan Das, the Legislator" and the second "Madhusudan Das, the Leader" in which the speeches and writings of the great

Digitized by srujanika@gmail.com

leader would find a place. His speeches and writings bear the imprint of his extraordinary genius, his wit and wisdom, his political sagacity and the ardent nationalism which formed their background. We are thankful to the members of Pragati Utkal Sangha for undertaking such a commendable project of national importance.

Jyotivihar EDITORS
1st April 1980

Digitized by srujanika@gmail.com

Digitized by srujanika@gmail.com

Contents

SECTION I (1896-1912)

1.	Munsifs for Orissa ...	1
2.	Transfer of Salt Department of Orissa from Madras to Bengal Government	1
3.	Bengal Financial Statement for 1896-97	2
4.	The Protection of Muhammadan Pilgrims Bill ...	6
5.	Alleged Unsatisfactory Results of the Ravenshaw College, Cuttack ...	9
6.	Alleged Inefficiency of the Ravenshaw College and Collegiate School	10
7.	Prohibition of Leave in the Collegiate School, Cuttack	11
8.	Refund of Excess Fines Levied in Ravenshaw Collegiate School ...	12
9.	Bengal Municipal Act, 1884, Amendment Bill ...	12
10.	Chutia Nagpur Tenancy Bill	19
11.	Rain-Gambling Bill ...	20
12.	Bengal Financial Statement for 1897-98	21
13.	Calcutta Tramways Bill	22
14.	The Puri Municipal Board	23
15.	Uriyas in Government Service	23
16.	Settlements in Orissa ...	25
17.	Bengal Financial Statement, 1901-2 ...	25
18.	The Bengal Financial Statement for 1902-3	31
19.	Welcoming Sir Edward Baker	42
20.	Deputy Port Officer, Calcutta ...	44
21.	The Bengal Financial Statement for 1909-10	45
22.	The Assassination of Sir William Curzon Wyllie	55

Digitized by srujanika@gmail.com

23.	Questions and Answers	57
24.	Bengal Excise Bill, 1909	59
24(A).	Bengal Excise Bill, 1909 ...	61
25.	The Revised Financial Statement, 1910-11	67
26.	Budget, 1910-11	71
27.	The Calcutta and Suburban Police (Amendment) Bill, 1910	75
28.	The Bengal Cess (Amendment) Bill, 1910	79
29.	Resolutions on Matters of General Public Interest	80
30.	The Estates Partition (Amendment) Bill, 1911	82
31.	Matters of General Public Interest	83
32.	The Calcutta Improvement Bill, 1911	84
33.	The Orissa Tenancy Bill, 1911	86

SECTION II (1913-17)

34.	The Orissa Tenancy Bill, 1913 ...	160
35.	Condolence on the Death of Sir Edward Norman Baker ...	162
36.	The Budget, 1913-14	163
37.	Separate High Court for Bihar and Orissa	166
38.	Extension of the System of Trial by Jury	167
39.	Revised Financial Statement	169
40.	Presentation and Explanation of the Budget	170
41.	On Legislative Business	174
42.	Orissa Tenancy Bill ...	175
43.	Expression of Loyalty to the British Government	178
44.	Condolence on the Death of Lady Hardinge and of Lieutenant Edward Hardinge ...	180
45.	Bihar and Orissa Decentralization Bill, 1915	180

Digitized by srujanika@gmail.com

SECTION III (1913-1916)

46.	Criminal Law Amendment Bill	183
47.	Extradition Amendment	193
48(A).	Financial Statement: Increase of Allotment for Non-recurring Grants for Education, Sanitation, etc., for Bihar and Orissa ...	195
48(B).	Increase of Allotment of Recurring Grants for Promotion of Education and Improvement of Sanitation for Bihar and Orissa ...	198
49.	Separation of Judicial and Executive Functions	205
50.	Extension of Primary Education in India ...	207
51.	Opening of a Port between Chandbali and Short's Island	209
52.	Construction of a New Railway Connecting Orissa, Chota-Nagpur and Patna	212
53.	Loss of Opium Revenue	215
54.	Customs Duty on Sugar	217
55.	Criminal Law and Procedure	220
56.	Repealing and Amending Bill ...	224
57.	Code of Criminal Procedure	228
58.	Budget, 1914-15 ...	228
59.	State Technical Scholarship	231
60 & 60(A).	Questions and Answers	234
61.	Amendment of the Press Act	237
62.	Advisory Boards for Assessment under Income Tax Act	240
63.	Long-Term Land-Revenue Settlement ...	242
64.	Decentralization Commission with regard to Municipalities	245
65.	Election of Presidents of Rural Boards	249
66.	The Benares Hindu University Bill	251
67.	Budget, 1915-16	253
68.	Defence of India ...	258
69.	Questions and Answers ...	260
70.	Indian Vernaculars in Secondary Schools ...	261

Digitized by srujanika@gmail.com

71.	India's Gratitude, Devotion and Loyalty ...	264
72.	State Management of Railways	268
73.	Budget, 1916-17 ...	270
74.	Indian Income Tax Bill ...	272
75.	Indian Medical (Bogus Degrees) Bill	273
76.	Amelioration of Depressed Classes ...	277
77.	Growth and Development of Industries in India ...	280
78.	Ancient and Indigenous Systems of Medicine on a Scientific Basis	282
79.	Vernacular Medical Training	284
80.	Indian Tariff Bill ...	286
81.	Questions and Answers	289

SECTION IV (1921-23)

82.	Introduction of the Budget ...	290
83.	The Budget, Head — Civil Works	296
84.	Medical Relief in Rural Areas	299
85.	Medical Relief in Rural Areas	304
86.	Contamination of Ganges Water	305
87.	Retrenchments in Expenditure	308
88.	General Discussion on Budget	310
89.	Election of Members of Local and District Boards	313
90.	Budget Demands: Public Health	315
91.	Budget Demands: Civil Works ...	320
92.	Non-official Chairman for Municipalities and District Boards ...	333
93.	Charitable Dispensaries in Rural Areas	339
94.	Measures against Non-Co-operationists ...	340
95.	District Boards and Free Primary Education	344
96.	Localization of Expenditure of Local Bodies	346
97.	Grievances of Government Press Employees	347
98.	Room for Muhammadan Prayers	351

Digitized by srujanika@gmail.com

99.	Establishment of Ayurvedic and Tibbi Hospitals	353
100.	Medical Education and Epidemic Diseases	359
101.	Sabour Argicultural College and Agricultural Department	361
102.	Medical Relief in Police Stations Manjhi and Dagmara	364
103.	Establishment of Charitable Dispensaries in Temporary Houses	368
104.	Regulation of Bullock Traffic on District Board Roads	369
105.	Franchise for Women ...	372
106.	Treatment of Political Prisoners ...	376
107.	Amalgamation of the Oriya-speaking Tracts	377
108.	The Bihar and Orissa Municipal Bill	380
109.	Development of Mineral Resources	386
110.	The Bihar and Orissa Municipal Bill	391
111.	Type Plans for Charitable Outdoor Dispensaries ...	395
112.	Pioneer Sugar Factory in Bihar	398
113.	The Bihar and Orissa Village Administration Bill	400
114.	Representation of Depressed Class	403
115.	Trained *Dais* for Rural Dispensaries	406
116.	Residence for Public Servants	408
117.	The Budget: Scientific Department	410
118.	The Budget: Civil Works ...	421
119.	General Discussion on the Budget	423
120.	Budget Demands	432
120(A).	Budget Demands	436
120(B).	Budget Demands	437
120(C).	Budget Demands	440
121.	Appreciation of Mr. Montagu's Services	458
122.	Medical Department and Ancient Systems of Medicine	460
123.	The Bihar and Orissa Municipal Bill	464

Digitized by srujanika@gmail.com

124.	The Bihar Tenancy Bill ...	465
125.	The Court Fees Amendment Bill	468
126.	Appointment of Khwaja Muhammad Nur as President of the Legislative Council ...	471
127.	Withdrawal of Notification regarding Santal Parganas	472
128.	Financing of Primary Education, etc.	474
129.	Legislative Business: The Bihar Tenancy Bill	477
130.	Introduction of Heads of Budget	479
131.	General Discussion on the Budget	487
132.	The Bihar and Orissa Local Self-Government Bill	494
132(A).	The Bihar and Orissa Local Self-Government Bill	497
132(B).	The Bihar and Orissa Local Self-Government (Amendment) Bill	499
133.	The Budget — Voting of Demands for Grants. Salaries of Ministers	509
APPENDIX I		515

Digitized by srujanika@gmail.com

MADHUSUDAN DAS, THE LEADER OF THE
UTKAL UNION CONFERENCE

Digitized by srujanika@gmail.com

Digitized by srujanika@gmail.com

SECTION ONE

[*Madhusudan Das was elected as Member of the Council of Lieutenant Governor of Bengal from the District Boards and Municipalities Constituency of Orissa and Chhota Nagpur. He joined the Council on* 14 *March* 1896. *His speeches have been collected from the Proceedings of the Council of Lieutenant Governor of Bengal.*]

1. Munsiffs for Orissa*

The Hon'ble MR. M. S. DAS asked (on 28 March 1896):

In appointing Munsiffs for Orissa, will the Government be pleased to take into consideration the superior claims of candidates who, having obtained their B.L. degree from the Cuttack Ravenshaw College, are practising as pleaders in Orissa, and who have consequently a knowledge of the language and of all that is peculiar to Orissa.

2. Transfer of Salt Department of Orissa from Madras to Bengal Government†

The Hon'ble MR. M. S. DAS asked (on 4 April 1896):

(a) Will the Government be pleased to state whether any step has been taken to retransfer the Salt Department of Orissa from the Madras to the Bengal Government ?

(b) Has the attention of Government been drawn to the fact that the practical result of placing the Salt Department of Orissa under the Madras Government has been the closing of a local manufacturing industry and consequent loss of means of livelihood to several thousands of men ?

(c) Has the attention of Government been drawn to the judgement of the Sessions Judge in Criminal Appeal (No. 29B., 1st quarter of 1893), which was published in the *Utkal Dipica* of the 20th May, 1893, which shows how harassing

*Proceedings of the Council of the Lieutenant Governor of Bengal, 1896, p. 65.

†Ibid, p. 116.

Digitized by srujanika@gmail.com

and illegal the proceedings of the salt officers engaged to prevent illicit manufacture in Orissa have been ?

(d) If the attention of the Government has not been drawn to this judgment, will the Government be pleased to refer to it and take early steps to remedy the evil ?

3. Bengal Financial Statement for 1896-97*

The Hon'ble MR. M. S. DAS said: "I am not sure that the discussions in this Council are altogether infructuous. If I felt convinced of that, I should hardly be inclined to be on my legs. I may say that the provision made in the budget for the opening of an agricultural class at Sibpur, I have observed with mingled feelings of thankfulness to Government and regret. I come from a part of the country where the population is mostly agricultural, and being myself a man who takes an interest in agriculture, my interest is not confined to reading reports in the newspapers, but actually being in the fields for the purpose of seeing and making agricultural experiments. I am, therefore, very much interested in the provision made for the establishment of an agricultural school. If in establishing an institution like this the object of the Government be to improve the agricultural condition of the country, I feel that nothing is more likely to defeat that object than the location of the institution at Sibpur. We do not require young men to learn the science of agriculture, who will never take to agriculture as their occupation. If the improvement of the agricultural condition of the country is to be secured, it cannot be secured by educating a number of men in agricultural science, but by inducting a number of students of the actual cultivating class to join the institution and by having an institution located in such a place where experiments can be carried on over such areas, and in such circumstances as to place within the observation of students those practical difficulties which actual cultivators experience. There is no use in making experiments in small patches of land covering only a few yards. Such experiments do not take into account those causes which crop up when the experiment is made over a large area. In matters of agriculture the area under experiment makes all the difference. When an experiment is made over a small

*Ibid, p. 153. Discussion took place on 4 April 1896.

Digitized by srujanika@gmail.com

area, one can control the effects of light, heat and irrigation, which it is impossible to control when the experiment is over a large area. I could mention many other matters which have come within my own observation and experience, but this is not the place to do so. It will be sufficient for my purpose to say that to apply the results of experience to large areas which have been acquired in small areas is useless. I was told by my friends who have come from the Agricultural College at Cirencester that I was stupid, and could not properly apply their suggestions. I may be stupid, but it is not possible to get many more intelligent men among the cultivators of the country.

"If agriculture is to be improved, it must be improved by something which would benefit the agricultural classes. I do not think it is possible in the neighbourhood of Sibpur to get a large area for experiment in such a way as would be actually useful to the cultivator. Then the fact that Sibpur is a place where living is costly, and that it is miles away from districts where we can get students from the cultivating classes, the trouble and expense of the journey, and being hundreds of miles from their houses, they are exposed to the dangers and temptations of youth — these facts will prevent many of the cultivating class from enjoying the benefits of this institution which they would otherwise do. I do not think the people of Calcutta will ever take an interest in agriculture, and if this institution is located at Sibpur, the practical result will be to close its doors against those for whose benefit it is intended, for whose interest an agricultural class should be opened. If there is one place fitter than another for such an institution, it ought to be found in Orissa. There the population is mostly agricultural, and there a number of students from among the actual cultivating class can be had to join the institution. And, moreover, the zamindars in Orissa being proprietors of temporarily-settled estates, have no motive to improve the agricultural good of the country, because the zamindar knows that the proceeds of an improved state of agriculture do not go to his pockets alone; and where a poor zamindar has the motive he has not the means. Besides, Orissa being a temporarily-settled Province, the Government is more interested in the improvement of the agricultural condition of the country than in permanently-settled districts. The rule, Charity begins at home, is as good for the individual as it is for the Government. It will therefore

Digitized by srujanika@gmail.com

be in the interest of the Government and the cultivating classes, as well as of the zamindar, that an institution like this be opened in Orissa rather than in the vicinity of Calcutta, where, perhaps, the result will be to have a number of young men who will be able to deliver elaborate lectures on agricultural science without undertaking practically to improve the agricultural condition of the people. While on this subject, I would suggest that a portion of the money allotted under the head of Education to primary education may be very well utilized for the purpose of improving — if I may so call it — primary agricultural education in primary schools, like what they have in some parts of France. I read the details in a series of lectures explaining the system which prevails in France. This can be given effect to by introducing agricultural primers into these schools and by letting each school have a little farm of its own where the boys can make their experiments upon what they read about agriculture. From my own experience, that is, from what I have seen of these primary schools the majority of the pupils come from the cultivating class, and they become cultivators themselves afterwards. It is no use cramming young men with long dissertations and with high-sounding synonyms for horses and elephants. I have seen schools where the boys will give you twenty synonyms for a horse, an elephant, or a camel".

The Hon'ble MR. M. S. DAS continued: "I merely want to suggest that a portion of the allotment for primary schools may be devoted to the introduction of agricultural primers in those classes.

"The next point is as to the increase of the pay of ministerial establishments. The question has been considered from the ministerial officer's point of view. But there is another point of view. If the question were limited to the right of the ministerial officers to an increase of pay, I should not feel justified in re-opening the question, especially as the appeal made by the Hon'ble Babu Surendranath Banerjee was on a previous occasion met with the reply that the Government would not be justified in paying more than private employers pay their employees. But the ministerial officers of the Government are not in the same position as private employees. They form an important part of the machinery for the administration of justice in our Courts, and no analogy drawn from the law of demand and supply, as it

Digitized by srujanika@gmail.com

regulates the wages paid by private employers, can properly be applied to this class of public servants; for the latter have the custody of most valuable public documents and can easily defeat the ends of justice. If the question were only limited to the right of the ministerial officers to demand an increase of pay, on the ground of the high price of things, the Government might say that they are not prepared to grant any increase, but it should be remembered that along with this question is mixed up the other question, namely, that it affects important interests from a public point of view. The amount of inconvenience and injury to the public interests arising from the employment of an under-paid ministerial establishment ought to be taken into consideration. And one thing more ought to be considered, namely the amount of loss accruing by the employment of under-paid ministerial establishments. I know as a matter of fact that during the last 12 years the defalcations in the Cuttack Treasury alone amounted to Rs. 50,000. The amount of revenue lost to the Government by the smuggling of Court fees in the record-room, as well as the loss to the public on account of the blackmail which these ministerial officers levy all round should also be considered. If it were possible to get an account of the amounts lost under each of these heads, I think it would show that the ministerial establishment, as it is now, has actually cost the Government and the public a great deal more than it would have cost Government by giving an increase of pay and putting the establishment on a satisfactory footing. I have known cases where documents which constitute the only title deed by which a man could show his right and title to property have been removed from the Court-room by the opposite party. As long as the record-rooms are in the hands of officers capable of such things, all attempts of the Government to secure to the people a record of rights will be simply a waste of money.

" I may be permitted to add a word with regard to the scarcity of water, in as much as I have had experience in the working of District Boards. Their efforts to give to the people a supply of water have been defeated to a very great extent by the reluctance of proprietors to let District Boards have the control over water in their tanks even when the Boards have agreed to let the owners retain the rights of fishery and other proprietory rights. Of course, as Your Honour has said, a great deal can be done by the people themselves ".

Digitized by srujanika@gmail.com

4. The Protection of Muhammadan Pilgrims Bill*

The Hon'ble MR. M. S. DAS said: "The object of this Bill, as it has been stated by the Hon'ble, Member, is to protect certain Muhammadan pilgrims who start on their pilgrimage from Calcutta from oppression and swindling by a number of unprincipled brokers; and in moving to introduce the Bill, the hon'ble mover said that the pilgrims who now leave from Calcutta, all go by train to Bombay. Of course those who go by train generally buy their tickets at Howrah, and I dare say most of them travel third class, tickets for which are only available at the Howrah station; so that if any swindling or oppression is practised in any large number of cases, it must be done at Howrah, and there will be no jurisdiction in such cases, unless we extend the operation of this Act to Howrah. The hon'ble mover further said that in 1894 no pilgrim left by steamer direct from Calcutta; but looking at the provisions of the Bill, most of which refer to the liabilities and obligations of masters and owners of vessels taking pilgrims from Calcutta, one would be inclined to think that a large number of such persons left by steamer, whereas that practice seems to have fallen into disfavour among these people, and I dare say, with the still greater facilities for travelling to Bombay by rail which will be afforded by the new Bombay-Nagpur line, the number of pilgrims who will go by steamer from Calcutta will grow less. No doubt the Bill reserves power to the Government to extend the Bill to any place it thinks fit, but if the evil in *this* worst form and greatest magnitude is to be provided against, it will be at Howrah and not in Calcutta, and therefore I think this Bill is not a happy adaptation of means to the end.

"Turning to the provisions of the Bill, I find that the words 'any ship' have been used in section 6, clauses (b), (c) and (e), and also in section 9; and that in clause (b) of section 6 those words are followed by the qualifying clause 'to which the Native Passenger Ships Act applies', whereas, in other instances, no such qualification follows. This difficulty then arises, namely,

*Ibid, pp. 204. Discussion took place on 11 April 1896.
It was a Government Bill proposed by H. J. S. Cotton, the Chief Secretary of Bengal. The Bill was in line with the laws in force in Bombay and Karachi and meant for the protection of such pilgrims in Calcutta and other places in Bengal. Firms or persons handling Muslim pilgrims were to obtain licenses from the Commissioners of Police — this was aimed at preventing any exploitation of Haj pilgrims.

Digitized by srujanika@gmail.com

whether where the words 'any ship' are not followed by the qualifying clause they are meant to refer to ships to which the Native Passenger Ships Act applies, or to any ship whether that Act applies to it or not. If the two expressions have been used indiscriminately as synonyms, I do not think that is permissible under the well-known and well-established rule for the interpretation of Statutes, namely, that when the same words are used differently in different portions of an Act, the inference is that different things are meant by them. The difficulty, I think, can be remedied by introducing into the interpretation clause an interpretation to the effect that the word 'ship' means a ship to which the Native Passenger Ships Act applies. Suppose we mean that, and we import it into section 9 of the Bill, which authorizes the Protector of Pilgrims to 'enter and inspect any ship advertised or offering to convey pilgrims from the Port of Calcutta.' Now the Native Passenger Ships Act applies only to ships where a certain number of passengers are carried. It distinctly provides that it shall not apply to any steamship not carrying as passengers more than sixty natives of Asia or Africa. The object of this Bill is to protect poor Muhammadans from being swindled by unprincipled brokers, who trade on the ignorance or simplicity of these pilgrims. In a Bill of this nature it is very proper that immunity from punishment should not depend upon the number of persons who are swindled, and I dare say it is for that reason that the Bill has been so drafted that as soon as a ship offers to take pilgrims, the liability of the master or owner arises. So far so good. But when the qualifying words 'to which the Native Passenger Ships Act applies' are introduced, then it comes to this, that the liability of the owner or master will not arise till a ship offers to carry the number of passengers prescribed in the Native Passenger Ships Act. Consequently, if the master or owner of a ship advertises to take, say, ten passengers, this Bill cannot apply.

"Section 15 of the Bill provides that sections 46, 47 aud 49 of the Native Passenger Ships Act shall apply to all offences punishable and fines leviable under this Act, Section 46 of that Act provides the means by which fines may be realized. If a fine is leviable from the owner or master of a ship, it shall be realized by distress and sale of the ship, her tackle, furniture and other things. But this Bill provides for fines leviable from pilgrim brokers, from the owners, agents, masters and officers of

Digitized by srujanika@gmail.com

vessels, whereas under section 46 of the Native Passengers Ships Act officers of vessels are not punishable. Now, certainly it could not have been the intention to provide in this Bill that fines leviable from pilgrim brokers should be realized by selling the ship's tackle or furniture.

"Then section 47 of the Native Passenger Ships Act gives jurisdiction for the adjudication of penalties. It provides that the offence shall be deemed to have been committed within the limits of jurisdiction of the Magistrate of the place where the offender is found. The word 'wherever' I suppose includes the whole of India. It is competent to this Council to enact that wherever an offender is found within the territorial limits of the administration of this Government he may be tried by the Magistrate of that place. But to import into this Bill or to incorporate by way of reference a section in an Act which extends to territories beyond the limits of the jurisdiction of this Government, is not justified.

"Then section 49 speaks of the way in which fines when realized may be appropriated.

"I have observed that there is a notice of motion for an amendment with regard to the definition of term 'pilgrim broker' by the introduction of the words 'at a profit'. The words 'buys or re-sells' no doubt cover cases in which the parties are parties to an honest and fair transaction, but the objection will not be entirely removed by the addition of the words 'at a profit'; because the Bill provides for the payment of a commission not exceeding 5 per cent. Suppose a broker buys a number of tickets and gets the 5 per cent commission which the Bill allows; and then, adding that commission, he re-sells the tickets. That is selling 'at a profit'. Then, suppose the case of a person who has secured first class accommodation for himself; a fellow-passenger wants also to travel first class, but no first-class accommodation is available, and suppose this fellow-passenger buys the ticket from the man who has secured first-class accommodation and pays more than the proper price. The person who sells his ticket 'at a profit' does not swindle, because he foregoes so much comfort, and the man who buys at a higher price does so for his own comfort. It would be a hard case if such a man was held to be a 'pilgrim broker'. Moreover, how could you prove the fact of selling 'at a profit' if there is collusion between

Digitized by srujanika@gmail.com

the master of the ship and the broker. A person ought to be styled a 'pilgrim broker' who habitually buys and sells pilgrim tickets. It does not matter whether he makes a profit or not — a thing which it would be very difficult to prove; but where in one single instance a man buys and re-sells, he certainly ought not to be put down as a pilgrim broker.

"Then, section 13 of the Bill might have been omitted, because section 37 of the Native Passenger Ships Act makes similar provision.

"It would suggest to Your Honour that the Bill be referred back to the Select Committee for the consideration of these matters, so that we may not only give protection to the poor men who make pilgrimages, but also guard with sufficient accuracy against the possible contigency of getting any honest man convicted".

The Hon'ble MR. M. S. DAS interposed: "The Native Passenger Ships Act provides that fines imposed on the owner or master of a ship shall be realized by the sale of the ship's tackle and furniture.* "

5. Alleged Unsatisfactory Results of the Ravenshaw College, Cuttack†

The Hon'ble MR. M. S. DAS asked (on 18 July 1896):

In the Annual Administration Report for 1894-95 Mr. H. G. Cooke, the Commissioner of Orissa, in speaking of the Ravenshaw College at Cuttack, made the following remarks:

"On the 31st March, 1895, there were 59 students on the roll against 68 on the corresponding date of the preceding year. At the B.A. Examination held in 1894, 29 candidates appeared, of whom only 7 passed. At the F.A. Examination 5 passed out of 31. The result is not at all satisfactory. Though the College had an able Principal in Mr. Hallward, there appears to be something wrong with the institution to account for such poor results. If the evil admits of a remedy, I would strongly advocate that the remedy should be sought for and applied. The College is the only institution of the kind in Orissa, which, as a division, is admittedly backward in higher education.

*Ibid, p. 209.
†Ibid, p. 244.

Digitized by srujanika@gmail.com

(a) Has any enquiry been directed to find out why the results at the University Examinations have been unsatisfactory since Mr. N. L. Hallward's appointment as the Principal of the Ravenshaw College ?

(b) Has any step been taken to remedy this state of things as suggested in the above quotation from the Commissioner's Administration Report ?"

6. Alleged Inefficiency of the Ravenshaw College and Collegiate School*

The Hon'ble MR. M. S. DAS asked:

(a) Is the Government aware of the fact that out of 17 boys who went up from the Ravenshaw College for the B.A. Examination of the Calcutta University in 1893 only 2 passed, and at the F.A. Examination of the same year only 5 passed out of 40 sent up ?

(b) Is Government aware of the fact that Mr. Hallward did not teach any subject in the F.A. classes during the years 1893, 1894 and 1895, though the former Principal, Mr. S. Ager, used to do so ?

(c) Is the Government aware of the fact that Mr. Hallward only taught English in the B.A. classes, and in doing so he taught the 3rd and 4th year classes together ?

(d) Is the Government aware of the fact that out of the boys who were sent up from the Ravenshaw College for the B.A. Examinations in 1892, 1893 and 1894, the largest number failed to secure the pass marks in the English language — the subject taught by Mr. Hallward ?

(e) If the Government is not aware of the facts referred to in the questions (a), (b), (c) and (d), will the Government be pleased to cause an enquiry to be made with a view to ascertain the correctness of these statements and place the result of such enquiry on the table for the information of the Council ?

---

*Ibid, p. 245.
Mr. M. Finucane replied on behalf of the Government:
(a) Mr. Hallward cannot be held responsible.
(b) DPI will be informed for Departmental action.
(c) ×
(d) Failure in English was a general fact in Bengal — not typical of Ravenshaw College.
(e) No special enquiry.

Digitized by srujanika@gmail.com

(f) Will the Government be pleased to take such steps as may restore the Ravenshaw College and the Collegiate School to that condition of efficiency which they had before Mr. Hallward's appointment as Principal, seeing that, to quote Mr. Cooke's words, *" it is the only institution of the kind in Orissa, which as a division is admittedly backward in higher education '.**

7. Prohibition of Leave in Collegiate School, Cuttack†

The Hon'ble MR. M. S. DAS asked (on 18 July 1896):

The minor Raja of Baramba was a student of the Ravenshaw Collegiate School at Cuttack. The Commissioner of the Orissa Division as the *ex-officio* Superintendent of the Tributary States is the guardian of the minor. The Superintendent of Tributary State sanctioned the minor Raja's visit to his State on the occasion of his sister's marriage, and for that purpose leave was obtained from the Head Master of the Ravenshaw Collegiate School. His leave expired on 29th November, on which day the Raja's mother reported to the Superintendent of Tributary States that the Raja could not start back for Cuttack till 2nd December, as his presence at home was necessary in connection with some religious ceremonies. on 5th December the Superintendent of Tributary Mahals wrote to the Head Master for an extension of four days' leave, but the Head Master replied that *" under the rules no retrospective leave can be granted "*. The minor Raja was fined and had to undergo 15 days' drill for having overstayed his leave by four days.

(a) Have these facts been brought to the notice of the Government ? Does the Government approve of the punishment inflicted on the minor Raja under the above mentioned circumstances ?

(b) Will the Government be pleased to direct the authorities of the Ravenshaw Collegiate School to revoke this sweeping rule against granting retrospective leave, which is allowed even to Government servants in cases of unforeseen emergencies ?

---

*(f) Government defended the appointment and efficiency of Mr. Hallward.

†Ibid, p. 247.

Digitized by srujanika@gmail.com

8. Refund of Excess Fines Levied in Ravenshaw Collegiate School*

The Hon'ble MR. M. S. DAS asked (on 18 July 1896):

Is the Government aware of the fact that in the Ravenshaw Collegiate School boys who absented themselves at the end of holidays were, till last week, fined at the rate of six annas a day, though under the rules framed by the Director of Public Instruction they could not be fined at a higher rate than two annas a day?

Will the Government be pleased to direct the Ravenshaw School authorities to refund the excess amounts thus extorted against rules?

9. Bengal Municipal Act, 1884, Amendment Bill†

The Hon'ble MR. DAS said: "The Report of the Select Committee *as well as the Bill as it comes from the hands of the* Select Committee contains a provision for taxing musical processions, or rather, as it is called, music in the streets".

The Hon'ble MR. DAS continued: "I am not now moving an amendment. I am objecting to a portion of the Report of the Select Committee being taken into consideration by the Council. My objection amounts to a point of order. I shall presently explain myself. This provision to tax music in the streets was not in the Bill when it was introduced on the 28th March, 1896. Then the Bill was referred to a Select Committee, and the opinions of public bodies were invited upon its provisions. Subsequently two Government Circulars were issued, one of which was directed to Commissioners of Divisions and the other to certain public bodies — certain Associations — inviting their opinion upon certain points, one of which was a proposal to tax musical processions".

The Hon'ble MR. DAS said: "If the President rules that I am out of order, I bow to his decision. My objection is that that part of the Select Committee's report is not in order and cannot properly be considered by the Council".

*Ibid, p. 248.
†Ibid, p. 271. Discussion took place on 1 August 1896.

Digitized by srujanika@gmail.com

The Hon'ble MR. DAS said*: " I am not now going to move an amendment. I say that the portion of the Select Committee's report is altogether *ultra vires*. It was not in the Bill which was referred to the Select Committee, and it was not competent to them to report upon a subject not in the Bill. By this provision a new tax is imposed. The Rules of the Council distinctly say that no Bill can be introduced unless by leave of the Council first obtained ".

The Hon'ble MR. M. S. DAS said†: " I was at first inclined to support this amendment, but in view of certain remarks which have fallen from the Hon'ble Member in charge of the Bill, I am not now prepared to support it. When this Bill was introduced, the Hon'ble Member said that it was one of the proposals — rather a prominent proposal — to grant what may be called a lodger franchise in future. I expected that the rule now under discussion would be embodied in the Act, because it certainly was in the nature of a lodger-franchise. But as it has not been embodied in the Bill, I would have voted for the amendment, but for the remarks which fell from the Hon'ble Member in charge of the Bill, and which remarks were to the effect that a certain cases in which it may be necessary to reduce the amount of qualification and other cases in which it may be necessary to raise it; whereas if we embodied the rule as it stands in the Act, we would stereotype the qualification, and no latitude of discretion would be left to the Government. From the assurance which has been given by the Hon'ble Member in charge of the Bill and the remarks he made in introducing it pointing out the intention of the Government to confer a lodger-franchise, I venture to think we should rest satisfied that it is not intended by the Government to disenfranchise any persons who have been hitherto qualified ".

The Hon'ble MR. M. S. DAS said‡: " I also must vote for this amendment. With regard to the difficulties pointed out by the Hon'ble Member in charge of the Bill, it has been said by the Hon'ble Mr. Bose that the difficulties are of a theoretical character, and are of no practical importance. If it is necessary to extend the franchise to persons who have obtained similar honors from English Universities in order that this new franchise may be consistently and justly extended to First Arts passed students

*Ibid, p. 272.
†Ibid, p. 299.
‡Ibid, p. 311.

Digitized by srujanika@gmail.com

of the Indian Universities, I do not think the Hon'ble Mover of the amendment will have any objection to such extension. Local Self-Government is in its infancy in this country. The Hon'ble Member in charge of the Bill supposes certain difficulties which may be met with if the franchise is extended to certain classes of men, but with all possible deference to the Hon'ble Member, I say that he has no personal experience of the difficulties met with in Mufassal Municipalities, where we have to deal with a number of voters who are wanting in intelligence. When this Bill was introduced, it was said that one of the reasons for introducing the Bill was to extend the franchise to an intelligent class of voters; and the franchise was, as proposed, extended to a class of men who have not been included, because they have the property qualification, but they seem to have been included because they have an educational qualification. That was no doubt an amendment in the right direction, and as this Bill has been amended by the Select Committee so as to extend the franchise to persons in whose case their education is a guarantee for the just exercise of the right of voting, I think it should on the same ground be extended to those who have passed the First Arts examination. I have known an instance in the Mufassal where a person who had worked for a municipality for twelve years (he occupied the position of an Executive Engineer, which went to show that he was a man who could do an immense amount of service to the municipality), stood for election as a Commissioner of the municipality, but I was the only person who voted for him. All the other electors voted for a clerk in the Commissioner's office, who was in receipt of a pay of Rs. 35 a month. And I have also known an instance where a gentleman's own coachman and *durzee* voted against him, because a clerk in the office told them they would have their taxes remitted if they voted for him. These are examples which show that we should encourage intelligence in voters, and I think that in the interests of Local Self-Government it is necessary that the franchise should be extended to First Arts students. I do not think they are in any way inferior to mukhtears in intelligence and not certainly to revenue agents, and I do not see why the franchise should not be extended to them. We have heard from the Hon'ble Mover of the amendment that a very large number of this class of intelligent men are to be found in the Mufassal, and I dare say it will be to the interest of Local Self-Government, and of the

Digitized by srujanika@gmail.com

municipalities themselves, to have intelligent voters to vote for people who really take an interest, and have the ability to administer, the municipal affairs".

The Hon'ble MR. M. S. DAS said*: "There cannot be any general objection to the introduction, into the Municipal Act, of a proviso relating to veterinary matters. Much has been already said on the subject, but it strikes me that now that certain agricultural areas are included within municipal limits, it becomes the legitimate duty of the Municipality, when funds can be spared for the purpose, to do something towards improving the breed of cattle in the country, and we cannot do a greater service to the agricultural population than to improve the breed of cattle. I am glad to hear that the Hooghly Municipality have been maintaining a bull for this purpose. I always thought the disappearance of the old *Brahmini* bull, which was a fine specimen of a bull, was due to the avarice of Municipalities. The *Brahmini* bull, which is dedicated to an idol, is often found in Municipalities in the scavenging cart, and I am glad to see that one Municipality at least has exhibited its zeal for the atonement of the sacrilegious misappropriations by purchasing and maintaining a bull specially for the purpose of improving the breed of cattle. As regards the remark that the attempt to establish veterinary dispensaries in certain places has proved a failure, I think that in a country like India any new institution must be launched under the most favourable circumstances, and efforts should be made to see that the people take to it. Conservative people like those in India will not easily take to new institutions. When the Cattle Commission sat, I believe that two or three years before that there was a good deal of cattle-disease in Bengal, and steps were taken by the Government to check it. It was then in the contemplation of the Government to meet the expense of preventive measures from the revenues derived from pounds. Now that revenue goes to Municipalities, and I think therefore that they may be well called upon to devote a portion of this fund for veterinary purposes. I do not think we shall get a favourable answer from the Hon'ble Member in charge of the Bill as to the probability of a grant from the Provincial Revenues. The Hon'ble Member is never liberal in making grants, but where a measure is practicable and feasible, and it is put on the ground that it should be undertaken only when funds

*Ibid, p. 343. Discussion took place on 8 August 1896.

Digitized by srujanika@gmail.com

are available for the purpose. I do not see that there can be any objection to such a measure being included in the Bill".

The Hon'ble MR. M. S. DAS moved* that the following be substituted for the proviso to clause (a) of section 85 of the Bengal Municipal Act, 1884:

'Provided that the amount assessed upon any person or persons, in respect of the occupation of any holding shall not be more than eighty-four rupees per annum.'

He said: "It was no doubt the intention of the Legislature, in framing the proviso to section 85 of the Bengal Municipal Act, that the maximum assessment on any single holding, whether it is in the occupation of one person or of more than one person, should not exceed Rs. 84, but to this intention a sufficiently clear explanation is not given, and the result is that this clause has been differently interpreted in different Municipalities. I shall better explain myself by taking a concrete example. Suppose the case of a father and two sons each having a monthly income of Rs. 500. In a Municipality where the assessment is on persons, and according to the circumstances and property of such persons, if the assessment is at the rate of 1 per cent, these three persons will be taxed at Rs. 60 per head per annum if they occupy separate holdings, and if they live in one and the same house, they will not be charged with more than Rs. 84. That, I think, was the intention of the Legislature".

The Hon'ble MR. M. S. DAS continued: "If that word had been explained in the Interpretation Clause, or if it meant two or more persons, then a different construction would not have arisen in different Municipalities. As a matter of fact I may mention, that in the Faridpur Municipality, where two such persons were living in the same house, they would pay Rs. 84, whereas in Cuttack they would pay Rs. 160; so that the proviso is actually interpreted in different ways in different Municipalities, and it is necessary that a clear interpretation should be put. The proviso should be so worded as to unmistakably point out the intention of the Legislature. It is for the Council to say whether or not they will apply the maximum rate to a case where more than one person, having separate incomes, occupy one and the same holding. That is a question for the Council to decide,

*Ibid, p. 367. Date 15 August 1896.

Digitized by srujanika@gmail.com

but I submit it is absolutely necessary that there should be a uniform interpretation of the proviso, which hitherto has not been the case. I think that by inserting the words 'or persons' this ambiguity will be removed. We have now introduced what is called a lodger-franchise, or in other words, a franchise in favour of persons who have an income of Rs. 50, but do not pay any Municipal rate. But Municipalities, where the assessment on the person is in force, will not have the benefit of that concession, unless the construction I contend for is put on the proviso; for if every person occupying a holding, or any number of persons occupying one and the same holding, are to be taxed according to their circumstances and property, then a person with an income of Rs. 50 would be entitled to vote as a rate-payer. Consequently this concession will not be extended to Municipalities, where the assessment is on the person and not upon holdings. On these grounds I submit that my amendment ought to be accepted".

The Hon'ble MR. M. S. DAS in reply said: "This is not an ambiguity which suggests itself to me alone. In Collier's edition of the Bengal Municipal Act, he makes the following comments on this provision:

> 'Two or more persons having separate sources of income and occupying the same holding, may, it would seem, be separately assessed under clause (a). In such a case it appears somewhat doubtful whether each could be assessed up to the maximum of Rs. 84, or whether the total assessment upon all the occupiers of the holding must be within that amount. Probably the latter view is the correct one?'

"The difficulty has suggested itself to different Municipalities, and different interpretations have been put upon it; and the same difficulty suggested itself to Mr. Collier, and he has annotated upon it".

The Hon'ble MR. M. S. DAS also moved for leave to withdraw the following motion standing in his name:

> "That in section 14 the following be substituted for the proposed new section 351 B:
>
> "Fees may be charged at such rates as may be fixed by the Commissioners at a meeting and sanctioned by the Commis-

Digitized by srujanika@gmail.com

sioner of the Division, for the use of music by processions in the streets on the occasion of festivals or ceremonies'.

'The said fees should be levied by the Officer of Police who regulates such processions' ".

The Motion was, by leave of the Council, withdrawn.

The Hon'ble MR. M. S. DAS also moved that in section 14, for the proposed new section 351 B (1), the following be substituted:

'351 B. Fees may be charged at such rates as may be fixed by the Commissioners at a meeting and sanctioned by the Commissioner of the Division, for processions in the streets attended with music, for which a license has been issued under clause (3) of section 30 of Act V of 1861 of the Indian Council'.

The Hon'ble MR. M. S. DAS continued: "My amendment is the only way out of the difficulties, under the section as it now stands. Religious processions are exempted from taxation under the section, and therefore the question whether a particular procession is of a religious character or not, will have to be decided by the Municipal Board. From my experience of Mufassal Municipalities, I think if we were to convert Municipal Boards into Ecclesiastical Boards, we shall be doing something absurd. It will be for Municipal Boards to decide what is a religious procession and what is not a religious procession. In our Boards we have members of diverse religious persuasions. We have followers of Hinduism, Muhammadanism, and many other *isms*, and we are going to introduce the worst of all *isms*; which is *schisms*. What is proposed to be done is to convert Municipal Boards into tribunals of an ecclesiastical character, which would have the right to decide what is a religious procession and what is not a religious procession — tribunals — where the Hindu will have the right to decide what is or is not a part of the Moslem faith, and *vice versa*."

(The Hon'ble MR. M. S. DAS thereupon withdrew his Motion.)

The Hon'ble MR. M. S. DAS also, by leave of the Council, withdrew the motion of which he had given notice that in section 14 the proposed new section 351 B (2) be omitted.

Digitized by srujanika@gmail.com

The Hon'ble MR. M. S. DAS said: "The real question at issue between the Hon'ble Member in charge of the Bill and the Hon'ble Mover of the amendment, as far as I understand it, is whether it is the legitimate province of Municipalities to devote a portion of their funds to acquire open spaces for the purpose of promoting physical education. There is no difference, I understand, as to the meaning to be attached to squares and gardens. Squares are open spaces, and no particular legal knowledge or legal education is necessary to interpret the amendment. The real question is whether Municipal funds should be devoted to purposes of physical education. I think this ought not to be allowed, and my reasons for saying so are these. If the Hon'ble Mover of the amendment wishes to make provision for more physical education than is included in the clause for the establishment and maintenance of schools, I am sorry I cannot vote for him. Physical education is a thing which the people have now learned to appreciate, and if it is the duty of Municipalities to promote physical education, it is much more the duty of parents to do so. Parents should be made to contribute towards the expense of keeping up institutions for the purpose of imparting physical education. Under the provision for the maintenance of schools this object is attained, to a certain extent, by fees which come from the pockets of parents; but, by this amendment, open spaces for the promotion of physical education are to be kept up entirely at the cost of Municipalities. For these reasons I shall vote against this amendment".

10. Chutia Nagpur Tenancy Bill*

The Hon'ble MR. M. S. DAS said: "As the Bill is going before a Select Committee, they will consider the point which has been raised by the Hon'ble Member. I understand that there may be cases in which it may be necessary to exercise such a power in the interests both of zamindars and tenants. But as the learned Advocate-General is here, I would ask whether the provisions of section 14 can legally find a place in this Bill: whether this Legislature has the power to take away the jurisdiction of the Civil Courts?"

*Proceedings, op cit, 1897, p. 68. Discussed on 13 Feb. 1897. W. H. Grimley moved the bill, to regulate enhancement of rent, commutation of predial conditions or services, and the registration and resumption of intermediate tenures in parts of Chutia Nagpur, be referred to a Select Commitee consisting of Sir Charles Paul, H. H. Risley, C. H. Wilkins, A. M. Bose, Eshan Chandra Mitra, M. S. Das and W. H. Grimley.

Digitized by srujanika@gmail.com

11. Rain-Gambling Bill*

The Hon'ble MR. M. S. DAS said: "A good deal has been written in the papers and said about this Bill, but one thing I do not understand, namely, why there should be so much opposition to this Bill. The existing law on the subject contains a provision against keeping a common gaming-house, and the amendment proposed by this Bill only aims at enlarging the definition of the term "common gaming-houses". I do not see how there can be any analogy between betting at races and the system of gambling for the suppression of which this Bill has been introduced; because certainly there is a certain amount of difference between people betting in their own houses and the systematic betting carried on in establishments which are open to the public where any one can go and indulge in betting. The law aims at putting down such common gaming-houses. A legislative assembly does not undertake to improve the morality of the people. We do not sit here to do the work of preachers and moralists; but in all countries the Legislature does undertake to put a certain amount of restraint upon places of public resort for the protection of the public. The Marwari community are of course quite welcome to indulge in betting in their own houses; but if they require certain appliances for the purpose, a reservoir and a spout through which water must flow, they reduce it to the form of a common gaming-house. I do not think it is the intention of this Bill to stop Marwaris or any other persons from gambling about rain falling, or staking their purses upon prognostications of rain; but it is this particular system of gambling which it is proposed to suppress by means of this Bill.

"While we are on this subject, I beg respectfully to submit that this opportunity should be utilized to introduce a small amendment in the Gambling Act which affects the mufassal. There is a difference in the provisions of the two Acts — the Act which affects Calcutta, and the Act which affects the mufas-

*Ibid, p. 94. Date of discussion — 20 March 1897. C. W. Bolton moved the Bill. Rain gambling had been introduced to Calcutta by the Marwaris. The gambling was associated with betting by other participants on the occurrence of rain within a certain time. This gambling was originally confined to Marwari Community — but gradually attracted others and became a public nuisance — Calling for adequate legislation to prevent. Surendra Nath Banerjea first raised this point in the Council in July 1895.

Digitized by srujanika@gmail.com

sal, with regard to the power of the Magistrate to order the search of a house on suspicion that it is a common gaming-house. A Magistrate in Calcutta can take the initial proceeding when he receives information upon oath; whereas under the Mufassal Act no such thing is necessary to enable the Magistrate to take the initial proceeding. It has often been remarked that in carrying out the provisions of this Act, some *zoolum* is done by the mufassal police; and as it is the duty of this Council to protect the interests of the public by preventing gambling, I think it is the duty of the Council as well to see that some person should be held responsible for any annoyance or insult to which an innocent person may be put when the search of his house is made on information which perhaps proceeds from malice or spite. This would not be the case if the information was on oath. This is a suggestion I beg to make, and I hope the Hon'ble Member in charge of the Bill will take this matter into consideration. It is a very small matter, and I hope the Hon'ble Member will see his way to introduce such an amendment ".

The Hon'ble MR. M. S. DAS said: " In the Select Committee we decided that the little word 'anything' should be printed as two separate words. It was the suggestion of the Hon'ble Mr. Wilkins and was approved by all the Members of the Select Committee. I suppose the Secretary will take care that it will be printed as two separate words in the Act."

12. Bengal Financial Statement for 1897-98*

The Hon'ble MR. M. S. DAS said: " During the discussions on the Budget last year, I suggested the importance and the necessity of appropriating a portion at least of the educational grant to schools where agriculture would be taught in a primary form. My suggestions had some support from His Honour the present Lieutenant-Governor, who remarked that he had seen the experiment tried satisfactorily in the Central Provinces; I therefore expected that in the present Budget some provision would be made for giving an agricultural training in primary schools, but I regret to say that I do not find any provision made for this purpose. No doubt this is a year in which the Financial Secretary must have found it very difficult to make allotments for educa-

*Ibid, p. 199. Date of discussion — 3 April 1897.

Digitized by srujanika@gmail.com

tional purposes; in fact he ought to be congratulated for the successful manner in which he has adjusted the revenues of the Province, and provided for the monstrous calamity of famine without trenching upon the grant for education to such an extent as to be detrimental to the department. But I maintain that in a year of famine any outlay for the promotion of agriculture would not be out of place. Prevention is better than cure, and therefore by educating the people in the art of agriculture, though we shall not be able to avert famines by commanding rainfall in proper season, it will enable the people to know what crops they can grow in a season when the rainfall is scanty. This is very desirable because the peculiarity of agriculture in this country is that the people move about in the old groove and have the same crops from year to year irrespective of the vicissitudes of season. I do not wish to take up any further time; I shall therefore only express the hope that the Hon'ble the Financial Secretary will be able to find something out of the resources at his command for this most important item of expenditure".

13. Calcutta Tramways Bill*

The Hon'ble MR. DAS said: "The Hon'ble Mr. Apcar has referred to certain proceedings of the Calcutta Corporation and to certain irregularities or laches on the part of the Tramways Company which were perfectly unintelligible to me, because I was not conversant with these things, but to summarize the remarks, the Hon'ble Member has thought fit to make, the Calcutta Corporation has not done its duty in this matter and the Tramways Company too have not done their duty in the matter.

The Hon'ble MR. DAS continued: "As the Hon'ble Mr. Baker very properly remarked, the position and function of this Council, as far as this particular Bill is concerned, is really the function of a Civil Court. It is the duty of the Corporation to see whether it had all that was necessary for the proper and satisfactory working of the system of electric-traction. The Corporation has been authorized, under Act I of 1880, to see to the comforts and convenience of the public, and the Corporation is in more than one sense the guardian of the interests of the public. As some Hon'ble Member remarked at the last meeting (I do not remem-

*Ibid, 1900, p. 127. Date 28 July 1900.

Digitized by srujanika@gmail.com

ber whether it was the Hon'ble Member in charge of the Bill or the Hon'ble Babu Surendranath Banerjea), the position of the Council was such that they should either accept the Bill in its entirety or reject it, but it was not for this Council either to alter the agreement already arrived at between the parties, or to see whether the parties to the contract fulfilled the terms of the contract. If the Tramways Company do not do their duty as required by the contract, or if the Corporation does not enforce the contract, the Council cannot be asked to see that the parties actually act in accordance with the terms of the contract. This would be asking the Council to see to the working of the Act. The duties of the Council begin with taking a Bill into consideration and end with passing into law certain things which may be for the public interest. No doubt the Council for some reason or other, has, with regard to this Tramway Bill selected to take this particular course. It will be noticed that under Act I of 1896 a certain agreement was arrived at between the Corporation and the Company got legislative sanction. I think the reason for doing so was a very good one because the parties were not ordinary parties, the agreement was between the Calcutta Corporation and the Tramways Company and this received Government sanction under Act I of 1880. This Council was now carrying similar sanction to a fresh agreement between the same parties and that I could not understand from the Hon'ble Mr. Apcar's speech what he wants this Council to do ".

14. The Puri Municipal Board*

The Hon'ble MR. M. S. DAS asked (on 12 April 1901):

I. Will the Government be pleased to furnish a statement showing the amount that the Puri Municipal Board have drawn from the Lodging-house Fund in each of the last five years ?

15. Uriyas in Government Service

The Hon'ble MR. M. S. DAS said:

II. (a) I have the honour to draw the attention of Government to the following Resolution of the Government of Bengal (Appointment Department), dated the 6th March, 1901:

*Ibid, 1901-2, p. 45.

Digitized by srujanika@gmail.com

"Ordered that the petitioners be informed that copies of the petition have been forwarded for consideration to the several departments concerned. The interests of the Uriyas are not overlooked, and it is as open to them as to any other class or section of the community to compete in the public examinations and to take advantage of the opportunities offered by Government for employmen"

and I beg to ask whether the several departments concerned have been requested to give sufficient notice by advertisements in the Uriya Gazette or local newspapers, inviting candidates in cases where the appointment goes by selection and not by the result of competitive examination, especially where the head of the Department has his office in Calcutta ?

(b) Were any additional hands in the inspecting and clerical staff employed in the Salt Department when that Department was re-transferred to the Bengal Government ?

(c) If any additional hands were employed, will the Government be pleased to state the official designation and pay of each employee, as also his race, whether he is a native of Bengal or Orissa ?

(For the purpose of this question Bengalees, who are settled residents of Orissa, may be reckoned as residents of Orissa.)

(d) If any additional hands were appointed, who made the appointments ?

(e) Were they made by competitive examination or by nomination ?

(f) What steps were taken to notify to the people of Orissa these vacancies and to give them opportunities to apply or compete for them ?*

*To the above questions Mr. E. N. Baker replied:

No, The suggestions to advertise was not made. The instruction to the Departments had been communicated to the petitioners.

As regards the second part of the question, the clerical and the subordinate Inspecting Staff of Excise, and Salt Department are appointed by the Commissioner of Excise and Salt, and the Government has no information on the subject.

Digitized by srujanika@gmail.com

16. Settlements in Orissa*

The Hon'ble MR. M. S. DAS said:

III. (a) The Local Government having assessed an enhanced revenue on the estates of Ballarampore, Rugree and Chowsitpara in Orissa, the zamindars of these estates being desirous of petitioning to the Government of India against the decision of the Local Government, applied to the Commissioner of Orissa for copies of the opinions of the following officials who had expressed their opinion on the question of enhancing the revenue of these estates, viz. Mr. E. F. Growse, the Collector of the district; Mr. S. L. Maddox, the Settlement Officer of Orissa; Mr. W. C. Macpherson, the Director of Land Records; Mr. C. R. Marindin, the Commissioner of Orissa, and the Hon'ble Mr. G. Toynbee of the Board of Revenue; but the Commissioner refused the give the copies, though it was brought to the notice of the Commissioner that the zamindars of these estates intended to place the opinions before the Government of India to enable the Supreme Government to do justice to them. This is substantially the zamindars' statement in their memorial to His Excellency the Viceroy and Governor General in Council.

(b) Will the Government be pleased to direct the Local Officers having the custody of the records of the recent settlements in Orissa to furnish copies of papers which parties may require to bring to the notice of the Local or the Supreme Government their grievances? Is the Government aware of the fact that during and after the settlements of Orissa in 1839-40 every facility was given to obtain copies of the opinions of local officials, and the zamindars of the three estates named above were furnished with copies of the recommendations of the Commissioner and of the Hon'ble Board of Revenue not to enhance the revenue of their estates?†

17. Bengal Financial Statement, 1901-2‡

The Hon'ble MR. M. S. DAS said: "I fully endorse the remarks made by the Hon'ble Member who preceded me, when he congra-

*Ibid, p. 46.

†To the above questions Mr. F. A. Slacke replied:
"The Government has no information as to the action of the Commissioner of Orissa, but if he refused copies, he only acted in accordance with Rule 22, page 27 of the Board's Records Manual. The Lieutenant Governor however, is quite willing, as a special case to give the Zamindars of the 3 estates named in the question copy of any of the opinions mentioned for which they may apply."

‡Ibid, p. 59. Date 12 April 1901.

Digitized by srujanika@gmail.com

tulated the Government of the prosperity aspect of the Financial Statement now before us. In the concluding words of his speech he referred to the grant to the District Boards, and remarked that speeches made by Hon'ble Members in this Council were viewed not at all favourably by certain Members of this Council or by Government. If I ever believed that it was useless to speak out one's mind here, I should be the last person to be on my legs. Now, with reference to the grant which the present Budget provides to District Boards, I may say that times without number, both in this Council and in newspaper articles outside this room, the Government has been charged with having diverted the Road Cess Funds to purposes other than legitimate. The Despatch of the Duke of Argyll, who was Secretary of State for India at the time, was quoted — Sir George Campbell's exposition of that Despatch was also quoted — to show how the Road Cess Funds do what were the duties of Provincial and Imperial Funds. Some of those who raised this outcry went to the length of saying that this diversion of the Road Cess amounted to misappropriation on the part of the Government. I have no doubt that this was entirely wrong expression, because 'misappropriation' is a word which is found in the Penal Code. But though we very often pointed out to Government that the Road Cess and District Board Funds had been used for purposes other than legitimate year after year, Government took no notice of this complaint. In the present Budget, however, we have at last a liberal grant made by Government to the District Boards. I congratulate the Government for having made this liberal grant, and I should say we ought also to congratulate ourselves upon having a Government which is ready to lend a willing ear to just representations, and also upon having a Financial Secretary who is willing to consider the just needs of the District Boards. This grant is not only a liberal grant, but it is something more. It is a happy recognition of the principles of a friendly relation between the District Boards and the Government. There is no misappropriation now. The charge of misappropriation disappears, and we have instead the Provincial Funds and District Board Funds joining hands as friends willing to help each other. I hope this initial recognition of the mutual help principle will be more and more emphasized in after years.

"Now, Sir, I have a word which I should especially address to the Hon'ble Member in charge of the finances. I hope in dis-

Digitized by srujanika@gmail.com

tributing this liberal grant among the several District Boards, he will kindly bear in mind the special claims of the District Boards of Orissa, which, I think, have every right to a fairly good share. Orissa has just gone through a revenue settlement, which has brought in, I think, a net increase of about 13 lakhs of rupees to the Government revenue. This increase in the Government revenue means a net loss of 13 lakhs of income to the people of Orissa. I think, Sir, it is the duty of a Government — and especially of a Government presided over by a kind and sympathetic Statesman such as we have — to help the people to recover from the effects of this Revenue settlement. Fortunately for us the East Coast Railway has just been opened up, but we are very badly in need of feeder roads. I should say that the construction of feeder roads comes within the first legitimate duties of District Boards and within the legitimate purposes of the District Board Funds. The Secretary of State's Despatch, which has often been quoted, contains these words: 'It is, above all things, requisite that the benefits to be derived from the rates should be brought home to their doors; that these benefits should be palpably direct and immediate'. Feeder roads fulfil these conditions to the letter. They bring to the door of the cultivator the benefits of the railway; they open up facilities for finding a better market, and he gets at once better value for his agricultural produce. There is no mistaking these benefits. So the construction of feeder roads is the real and legitimate province of District Board Funds, and I hope that the Hon'ble the Financial Secretary will see his way to give due consideration to the needs of Orissa. I believe I have made out a fairly strong case, and I hope my appeal will meet with a sympathetic response from him.

"The Hon'ble Member on my right, who has just sat down, wished to know why a higher amount has been put down in the present Budget by way of discount to stamp vendors? I am not at all anxious to know the reason; for it has been my experience always that the Hon'ble the Financial Secretary holds the purse strings very tight, and it is not at all likely that the outside public will get a pice out of him unless there is absolute necessity proved to the satisfaction of the Government. I do not grudge the stamp vendors the more liberal rate of discount they are to get, but I would beg to suggest that these stamp vendors should be saddled with additional responsibility in the matter of the returns which they have to submit about the sold stamps. The practice in

Digitized by srujanika@gmail.com

times gone by was very different from what it is now. In former times stamp vendors were required to mention in these returns the names of each person to whom a stamp was sold, but that practice has been dropped. Who is responsible for the alteration of the practice I do not know, but with all due deference to him, I must say that his experience — if he has any experience at all — of Courts of Justice must have been very limited. Of course this is not the place to go into the subject as to what sort of returns they should submit, but I believe that it is not impossible, after consulting people who have experience in this matter, to devise a form of return which will effectively minimize, if not entirely suppress, the fraudulent practice which exists now in the sale of stamps. As things are at present, a stamp vendor may keep back some stamps and show in the returns that they were sold. These stamps are utilized afterwards when dishonest people wish to manufacture fraudulent documents; for, as the name of the purchaser is not mentioned in the return, parties have every facility to ante-date the fraudulent documents engrossed on them. It if is the wish of the Government to find out the most effective check against this particular kind of fraud, it can be done by consulting Judicial Officers who preside over Small Cause Courts in the Mufussal, where most of these fraudulent unregistered documents are produced, and the Pleaders who practise in those Courts.

"I have to make one suggestion with regard to copies of English records. The copyists who are employed in the Mufussal Courts and who supply copies of English records to parties generally come from a class who have a very limited knowledge of English. They are paid by piece-work, and in their eagerness to increase their income and earn a little more, they do their work in a slipshod and irresponsible manner. No doubt these copies are compared before they are given to the suitors; but this comparing does not at all improve matters, because the persons who are entrusted with the comparing of the records are no better than the copyists themselves. A copyist has sometimes to copy a document of which he cannot read several words in the original. When he does not know the word he tries to copy the word by making certain curves, strokes and lines just as he sees them before him in the original document; such a document, whatever may be its interest to one interested in the deciphering of hieroglyphics, is certainly of no use to the suitor who pays for it.

Digitized by srujanika@gmail.com

"In this connection I beg to make a suggestion, and that is, to introduce typewriting machines into our Courts of Law to meet and remedy the present state of things. This would attract a better class of men — better educated men — and the result would be better and more satisfactory to those who pay for these copies, because it is impossible with the typewriter to imitate the curves, strokes and lines of words one cannot read. The difficulty is only with regard to the furnishing of these machines, and as to who should pay for them. My answer is that it should be the business of the copyists themselves to find these machines. I suppose that there would be many men who would consider it well worth their while to invest Rs. 200 or Rs. 300 in a typewriter in order to get an income of from Rs. 40 to 50 a month; for we know that men deposit Rs. 500 by way of security to get posts as bill-collecting sircars on salaries of from Rs. 20 to Rs. 25 a month. In whatever way this difficulty is met, it is but justice to the suitors that they should have good copies which are useful. The Copyists' Department gives a revenue to Government and I think it is the duty of Government to see that the man who pays for a copy gets good value for his money.

"There is another matter to which I wish to refer. It is very grieving to find that while the Budget before us makes provision for increase of pay to several classes of officers employed under Government in judicial work, from High Court Judges to Subordinate Judicial Officers, there is no reference whatever made to one class of officers, most of whom are employed now as District Judges. The class of officers I am alluding to are our Statutory Civil Servants, who are paid now under the two-thirds rule. The Government of India appointed the Public Service Commission, who were directed to conduct a careful enquiry into the grievances, disabilities and disadvantages of the native members of the Statutory Civil Service. The finding of that Commission was that the difference of pay which existed had caused dissatisfaction, and they pronounced the distinction to be unjustifiable and invidious and not based upon any clear principle. The adjustment of their pay on the two-thirds' rule was pronounced by the Commission to be quite arbitrary and indefensible on general grounds. These expression of the Commission are to be found in pages 65 to 86 of their report. It requires no prophet to see or to know that the Statutory Service was abolished soon after the Public Service Commission sent in

Digitized by srujanika@gmail.com

their report. But though the system was abolished, it left in the hands of Government those who had been made Statutory Civilians before the system was abolished. The Statute which created the service has no provision in it to justify the two-thirds' rule of pay. The rules framed by the Government of India on the subject under the Statute contained no provision whatever which justifies this distinction in their pay. I know there is an executive order in the Civil Service Regulations, and to that order this two-thirds' rule is to be traced; but even that rule or executive order, which I understand is a Code for the guidance of the Accounts Department, has not been held invariable, for the present Maharaja of Darbhanga was allowed full pay. The remarks made by the Public Service Commission pronouncing the thing as indefensible on general grounds and stigmatising it as invidious and arbitrary, no doubt left the Government in an embarrassed position, and Government, therefore, decided to abolish the service altogether. It is perhaps too late in the day to discuss whether that difficulty could not have been got over by some other means; if it was necessary to get rid of something which had been pronounced invidious and indefensible by the Public Service Commission whether it would not have been infinitely better to remove the thing condemned and to abolish only the two-thirds' rule, and not the Statutory Civil Service? It was only the distinction of pay that the Commission had characterized as invidious and indefensible, and their remarks did not apply to the Service itself. Some of these Statutory Civil Servants have been removed by the cruel hand of death, and others have been removed by the merciful pension rules. I suppose there are very few of them left in the hands of Government, and it would not certainly cost the Government very much to allow the few who are left the full pay of the positions they hold. It is no doubt wise and worthy of the British Government to abolish a system which has been pronounced indefensible and invidious on general grounds, but I do not think it is wise to leave living monuments to testify to its existence in the past. I suppose the small expenditure that the Government might have to incur in allowing the remaining Statutory Civil Servants their full pay might be regarded as an expenditure on whitewash to obliterate a system which has been pronounced by the Public Service Commission as indefensible. In the Budget there is no special provision with regard to this two-thirds' rule. It has always been the

Digitized by srujanika@gmail.com

practice to budget the full pay of these officers, and afterwards the difference between that and the two-thirds is shown as a saving effected. In the present Budget the same course has no doubt been followed, so that there is provision in the Budget already for the full pay of these Statutory Civilians, and from the fact that there is no reference to this class of Government servants, though there is reference to other classes of Judicial Officers, I was inclined to think that this was due simply to an oversight. I hope that it is an oversight, and that it is not intended this year to pay the members of the Statutory Civil Service at the two-thirds' rate.

"I do not think I have many more remarks to offer, but I feel that I should not resume my seat without thanking the Government for the sympathetic manner in which they have done their duty, though that duty was a most difficult one, with regard to checking the Plague. I have had the honour of knowing personally what deep interest the Statesman presiding over the Government takes in this matter, and how sympathetically he has been collecting facts and figures and anxiously devising means to check the plague without in any way encroaching upon the existing customs or doing anything which will show that the Government was not in full sympathy with the people".

18. The Bengal Financial Statement for 1902-3*

The Hon'ble MR. DAS said: "I have had occasion in previous years to congratulate the Member in charge of the Finances on presenting a Prosperity Budget. The Budget which we have now before us is not only one which shows prosperity, but it also shows ample progress and the credit of presenting a Budget which distributes the fruits of prosperity among a most deserving class of public servants, and which applies the fruits of prosperity to the introduction of much-needed reforms, I say, the credit of presenting a Budget of this character to the Council is due to the Hon'ble Mr. Kisch, to whom the thanks of the public and the gratitude of the public officers whom the Budget provisions benefit are due.

"The remarks made by non-official Members of this Council have often been called infructuous and irrelevant. During his

*Ibid, 1902-3. Date 4 April 1902.

Digitized by srujanika@gmail.com

two years of official life in this Council, there are only two days, Sir, when a non-official Member can express his views on matters of importance, and on these two days his position is a source of bewilderment to him and of disappointment to the people whose interests be represents. I believe, Sir, that a great deal of this is due to incorrect notions regarding the position and duties of a non-official Member. Some would wish to draw an unjustifiable analogy between his position and that of a Liberal Member of the House of Commons; others liken him to a statutory being lifeless as a statue, while a third class regard him as a sworn hostile critic of the Government, unworthy of its confidence. I feel it my duty, Sir, to say from my place here why I have considered the duties of a non-official Member to be, and how I held the position here. I have always considered myself here as a humble interpreter of the Government and the people I represent. That is the right view of the position of a non-official Member, it quadrates with the laws and rules which regulate the proceedings of this Council and harmonizes best with our experience. As an interpreter his duties are to communicate to the Government the wishes and wants of the people, and to see that the intentions of the Government are not misunderstood by the people. However humble, Sir, this is by no means a useless office in a country like India where the difference in education, life, thought and religion between the ruling and subject races is greater than it is in any country in the world under a foreign Government. However humble his duties as an interpreter between the Government and the people may be, they are beset with very serious difficulties. Very often a non-official Member is liable, from want of information, to suggest measures or reforms which are not acceptable to Government. It is not possible for any non-official Member to have at his command all that information, all those figures, facts and statistics, which cost the Government the services of the ablest men in the ablest service in the world — I mean the Indian Civil Service. And this information, at the command of the Government, is not available to the non-official Member, and I am sorry to say his application to have most necessary informations in sometimes most unreasonably disallowed.

" When the Chota Nagpur Tenancy Bill was before the Council, I applied for a copy of the former Bill on the same subject which had been introduced in this Council on a previous occasion and to which old Bill reference was made by the Hon'ble Member in

Digitized by srujanika@gmail.com

charge of the Bill in his speech when he introduced the new Bill. But my application was disallowed first by the Hon'ble Member in charge of the Bill, and eventually by His Honour the then Lieutenant-Governor.

"Is it really a useless waste of time to give a few minutes during the term of two years to the interpreter of the wishes and wants of the people? Should it not be the duty of wise and sympathetic Government to know the wants and wishes of the people, although it may not be in its power to grant ready and immediate relief? A wise *paterfamilias*, anxious to enforce loyal and loving obedience to his children hostile critics even when their demands are wild and far beyond his powers and means. With these remarks, Sir, I pass on to deal with the Budget.

"I notice that there is an Imperial grant of 10 lakhs for Education. Your Honour's Government has three hungry children — Bengal, Bihar and Orissa — each of which casts a wistful look at this Imperial grant. I am sure Your Honour will not deprive any one of them of his due share. I know the eldest of these is Bengal. The claims of the first-born should no doubt be preferred in matters of inheritance to those of the younger children. I congratulate Bengal on its invaluable heritage of a Permanent Settlement and on its possession of a wealthy landed aristocracy.

"But in the matter of Education, Sir, when the first-born is able to appreciate Education and to look after himself, the parental attention should be withdrawn from him, or rather it should be directed to the younger children who may stand in greater need of such attention on account of their youth and helpless condition.

"In Orissa we have only one Government College for high education, which is very badly off for accommodation for lecture rooms, and for the use of its teaching staff. I have explained the details of our want to the Hon'ble Mr. Macpherson, to whom I take this opportunity of conveying the thanks of the students for the kind attention with which he received my representation on their behalf.

"We also require some sort of Hostel for Muhammadan students. The Muhammadan community of Orissa are trying their best to raise funds and, before long, I think there will be an application made to Government for a contribution towards the establishment of a Muhammadan Hostel.

Digitized by srujanika@gmail.com

"We have also a Medical School at Cuttack, which is attached to the General Hospital there. I find, at page 26 of this Statement remarks — the first is against Medical School and the second is against Medical Hospital and Dispensaries. Under the head 'Medical School', I heard a remark that there was some saving. I have often heard it said that the Medical School and General Hospital at Cuttack is behindhand in the supply of Surgical and midwifery instruments and appliances. I do not know whether it is possible to adjust the account so as to make available a decent sum for the supply of this want; I can only add that any grant to a medical school to which there is attached a hospital is not only a grant for the noble purpose of education, but it is combined to the still nobler purpose of giving relief to suffering humanity.

"As was noticed by the Hon'ble Member who preceded me, a good portion of the Educational grant ought to be given towards education in Technical Schools.

"There is nothing in the Budget to show whether any portion of this sum is for the benefit of Primary Education, but I do sincerely hope that it is the intention and aim of Your Honour's Government to re-cast and re-model Primary Education and to give it a practical turn. Primary Education should aim at improving the condition of the artisan and agricultural classes. To attain this aim, the hand and the head must be trained together. They must be trained, so to speak, to go in double harness, each helping the other in the path of progress. But the present system of education is subversive of this very object: it produces, as it were, an aversion in the agricultural and artisan boys to engage in the occupation of their forefathers. An agricultural or artisan boy who has been in the Primary and Upper Primary Schools considers it *infra dig* to engage in manual labour. This, Sir, is a most deplorable state of things. I do not consider it deplorable because it fills the country with disappointed and discontented aspirants for the posts of muharrirs, gumashtas, and petition-writers, but because it deprives the country of its most valuable resources. I think, Sir, that the richest legacy left by his ancestors to the Indian artisan is his organic adaptability to the handicraft of his ancestors — an adaptability which has been handed down from generation to generation, and which has an immense value in the commercial competition of the world. This gift of

Digitized by srujanika@gmail.com

the Indian artisan to his descendants is the result of the combined action of the law of evolution and the law of heredity.

" The present system of education, by producing in the minds of these men an aversion to engage in their ancestral occupations, really robs the country of its most valuable resources. And not only that, Sir, but the present system of education is of such a character, that it educates a boy in many subjects which are not likely to be useful to him, having regard to the class from which he comes. Anybody who has visited these Primary and Upper Primary Schools and examined the boys of these schools will agree with me when I say that there are many subjects taught in these schools which might be cut down or omitted, and the time thus saved might be spent profitably in giving the boys a more practical training.

" Three or four years ago I suggested that Agricultural Primers should be introduced into these Primary Schools, and that small agricultural farms should be attached to these schools, so that these boys might gain a practical experience on these farms on the lessons which they learn from the Primers. In connection with this, I should draw Your Honour's attention to the remarks made from the chair by your predecessor, Sir Alexander Mackenzie, who, speaking on the subject of the establishment of Agricultural Schools, said:

' I could say a good deal in regard to the establishment of Agricultural Schools. The Hon'ble Member did not meet with much sympathy from the Hon'ble Mr. Bolton, but my experience has been different, and I confess I have a good deal of sympathy with him. In the Central Provinces, Agriculture is taught in the village schools. We had a garden attached to many schools in which the lessons learnt from the Agricultural Primer are put into practice. Once a week the elders of the villages used to come to the school, have the Primer read to them, and discuss with the boys and the master how the lessons in the Primer quadrated with their experience, and the whole village took more interest in that subject than in any other.'

" Of course, it may not be possible, it may not be expedient, or it may not be within the means of Government to attach such farms to all schools, but, at any rate, an experiment might be made by introducing them into some schools. It is not possible for Government to organize a system of teaching by which every-

Digitized by srujanika@gmail.com

body can be taught his ancestral handicraft, but at the same time the system of education might be so modified, Sir, that a boy might have training of the head at schools and training of the hand at home; instead of having a whole-time education at school, he might have a training in the ancestral occupation at home, combined with book education at school, or a boy might attend school certain days of the week and attend to his ancestrals craft on the other days of the week. This would, I think, attract more boys, because, with the very poorest artisan, whole-time education does not find favour; for during the wholetime the boy is at school, the father is deprived of his services, and, to be deprived of the boy's services, means a loss of income. If the education of these boys were better regulated, we would not have this deplorable result — this aversion to being engaged in the ancestral craft; but, on the contrary, the hand and the head would be trained together, and the education thus gained, instead of being a deterrent to his carrying on his ancestral occupation, would be the means of improving it in every respect. If we cannot do anything for the artisan, let us not undo what he has; if we cannot make a better artisan of him, let us not make a non-descript of him: if we cannot feed him, let us not prepare him for a life of starvation.

"In the Financial Statement before us there is an allotment in the shape of pony allowance to Head Constables. This is a liberality in the right direction. There is a sum of 4 lakhs, to which reference has already been made by the Hon'ble Member who preceded me, for Police Reform. There is nothing to show how this grant is to be spent. I dare say the absence of details is due to the fact that there has been no time to put in the details, or perhaps that might not be necessary. I do not mean to find fault with the Financial Statement for want of these details, but what I mean to say is, that I hope it is the intention of Government to do something for the few good and honest Sub-Inspectors engaged in investigation duty. A really good Sub-Inspector is a *rara avis*, but the few who are good and honest, are very unfortunately and badly paid public officers. An honest Sub-Inspector's work is very arduous, and yet he is often treated very harshly. To begin with, his training is a sad equipment for his duties. His training is confined to clerical duties; he does not get an opportunity of seeing the work of experienced detectives, and he never learns the secret as to how one should proceed in order to

Digitized by srujanika@gmail.com

bring offences to light and offenders to justice. Then, Sir, he is placed, perhaps, under a European District Superintendent, who has no experience in investigation work or in detective work; so, practically, he gets no help, no practical advice from his immediate superior; all that he gets is a liberal dose of unparliamentary language and threats of degradation or punishment if he does not complete an investigation as soon as his superior wishes him. I hope, Sir, that it is the intention of the Government to come to the relief of these Sub-Inspectors. I shall show also that he is expected to know the law better than the Magistrate or Sessions Judge. If he omits to send up a man because he considers the evidence is not sufficient, and if the Magistrate is of opinion that the evidence was sufficient, he is punished or called upon for an explanation, though the same evidence may be considered insufficient by a higher tribunal, in which case nothing is done to the Magistrate. Then there have been cases, Sir, where he actually gets a belt supplied to him by the department with the buckle misplaced, but if he puts it on as he got it, he is disgraced because he put it on like that — disgraced before the public and before a number of school-boys. If there is a confidential letter to his superior alleging that he is an illegitimate child, he is summarily dismissed. I am not drawing on my imagination, but stating actual facts, and could give names, if desired.

"In the Excise Department, rewards are given to officers for good work and detective ability. Compared with this, the rewards given in the Police Department are very insignificant. I do not know whether there is any justifiable reason for the special favour shown by Government to the Excise Department, but I do sincerely hope that this reason is not to be found in the fact that the Excise Department is a milch cow which yields a large revenue. If the Excise Department brings in a large revenue to Government, it also adds to the policeman's duties by adding to the vices and crimes of society.

"Excise-officers belong to the Preventive staff, yet they are rewarded for detective work. I should have thought that detective work really comes into requisition when preventive measures have failed, and certainly it is no credit to the staff of officers who call themselves Preventive Officers to be rewarded for work which is of a detective kind, and belongs really to the Police. It has been said that unless rewards are offered in the Excise Depart-

Digitized by srujanika@gmail.com

ment, as it is to nobody's interest to bring to light Excise offences, these offences will never see the light of day. But this is true of several offences in the Penal Code, which it is nobody's interest to bring to the notice of the authorities. I do not say that this system of rewarding officers should be done away with; as it has existed so long, no doubt the Government has sufficient reason for it. All that I have to say is that if it is found of any efficacy as a stimulus in the Excise Department, the same stimulus ought to be given to good, honest Sub-Inspectors for good work done.

"I submit, Sir, that Government also ought to come to the relief of the Sub-Inspector in another way, that is, by extending his training previous to his appointment, and during such extended period of training to place him in company with some detectives at work, so that he might have an idea as to how he should proceed in the discharge of his duties.

"At the discussion of the Financial Statement last year, I expressed the hope that the friendly and parental attitude of the Government towards District Boards, as manifested by the grant of 4 lakhs to the District Boards last year, would be emphasized more and more in future years. My hopes have been more than realized this year, and we have got an amount which is in excess of last year's grant. On behalf of the District Boards of Orissa, I beg to thank the Government for its allotment, Rs. 30,000 out of last year's grant. I need hardly point out to the Hon'ble Mr. Kisch what the Hon'ble Mr. Baker said in reply to my appeal last year. The Hon'ble Member said:

> 'The Hon'ble Mr. Das has made an appeal to us that, in making the distribution, the Government should bear in mind the question of feeder roads in Orissa. We are fully alive to the fact that the East Coast Railway will not be complete, unless feeder roads are provided, and the Hon'ble Member may be sure we will give to his division the full share which is its due'.

"I hope the Hon'ble Member in charge of the Finances will bear in mind these words of his predecessor in office when distributing the 5 lakhs meant for District Boards, and 1½ lakhs provided for Feeder Roads.

"Sir, the introduction of the railway into Orissa is associated with your Honour's rule; may I be permitted to express the hope

Digitized by srujanika@gmail.com

that it will be the privilege of my race to associate with that rule also the completion of a system of feeder roads, which will bring to the door of the villagers, in the most backward province, the benefits of what is the most potent civilizing agency of the glorious Victorian era ?

" I gave notice of certain questions to the Hon'ble Member in charge of the Finances: they were actually in the nature of requests for information as to details; but as I have reason to believe that it is not practicable for Government to give those details, I now withdraw the questions, and the Hon'ble Member need not go into them.

" Last year, I made an ineffectual appeal on behalf of the Statutory Civilians. I believe in the justice of my cause, and I have full belief in the justice of Your Honour's Government, and therefore I renew this appeal, which I ask you to consider in the light of the facts which I am going to place before Your Honour. And I trust Your Honour's Government will see a way of abolishing the two-third pay rule — at least in regard to the more deserving members of that service — if it be deemed inexpedient to expunge it altogether. The members of this service have passed through changes of policy, and have experienced the jealousy and envy of the sister services and met with disappointment which have no parallel in the history of any other service in Bengal. The Duke of Argyle, in introducing the Bill relating to the creation of this service, said that its object was to select for the Civil Service of India natives of this country, although they might have gone up for the competitive examination in England.

" I suppose, Sir, no words would make it clear that it was the intention of the Statute to open a new door for admission on ground hitherto reserved for the Covenanted Civil Service. To remove any doubt with reference to the meaning of the Statute, I shall only refer to the despatch by Lord Cranbrook, dated 17th November 1879, in what Secretary of State vetoed the proposal of Lord Lytton's Government re-organize two separate services of a mutually exclusive character. In that despatch the Secretary of State remarked:

' It is, therefore, quite competent to Your Lordship's Government to appoint every year to the Civil Service of India any such number of natives as may be determined upon, and the

Digitized by srujanika@gmail.com

number of Covenanted Civilians from this country will have to be proportionately decreased '.

" These words make it clear that at that time it was intended to place the Covenanted Civil Servants and the Statutory Civilians on an equal footing.

" The inclusion in a higher service necessarily implies exclusion from a lower service, so that it could not be even plausibly contended that the Statutory Civil Service was a part of the Uncovenanted Civil Service. But to remove the very possibility of a doubt on the subject I beg to refer to the following words in the Government of India's Resolution, dated 24th December 1879:

> ' The correspondence with Her Majesty's Government thus shows that the main object of the rules was, not to transfer to the superior ranks of the Civil Administration officers of a class whose services have already been secured by Government in the inferior ranks, but to attract to the service of Government young men of good family and social position possessed of fair abilities and education, to whom the offices open to them in the inferior ranks of the Uncovenanted Service have not proved a sufficient inducement to come forward for employment '.

" These words show, *firstly*, that the Government was anxious to have a better class of men than were available for the Uncovenanted Civil Service, and *secondly*, that they offered higher inducements than were available to the Uncovenanted Civil Service. Agreeably to this Resolution, the Bengal Government proceeded to make appointments by two methods, namely by selection, and by competitive examinations, and those who got their appointments by competitive examination are, in my opinion, better deserving of consideration, and certainly have more just grounds of complaint than those who got in by selection. The Public Service Commission interpreted the status of the Statutory Civilian in a way which was not consistent with all that had been said and done by Government for several years, and certainly that interpretation was not consistent with the expectation of those who had entered the service. That Commission recognized the rights of individual members to specified posts only, ignored the idea of an organized service and recommended the absorption of the Statutory into the Uncovenented Provincial Service. Government accepted the view expressed by the Public Service Commis-

Digitized by srujanika@gmail.com

sion, without giving an opportunity to those whose interests had been affected to represent their view and their side of the case. Their grievances have evoked the united sympathy of the Press representing all classes of the Indian population. *The Englishman*, the *Pioneer*, the *Madras Mail*, the *Advocate of India* in Bombay, and all the papers here considered the action taken by the Government as amounting to an unjust escheat of vested rights, involving an actual breach of faith. Some of the members of the Statutory Civil Service petitioned the Government to have copies of certain documents in order that they might make a representation, and they asked the Government to forward this representation, with the necessary documents, to the Crown Lawyers for their opinion on the point as to whether they were members of an organized service or mere holders of specified appointments, but no heed was given to their application.

"Two sets of rules were framed under the Statute — one was in 1875 and the other in 1879. The rules of 1875 speak of the appointment to an office, place of appointment under the Civil Service of Her Majesty in India. The words 'office' and 'place' do not occur in the Rules of 1879, which speak of employment in posts hitherto usually held by Covenanted Civil Servants, and this change was no doubt not without reason. The appointments made under both rules were announced in different languages in the official Gazettes. The appointment of Rameshwar Singh under the Rules of 1875 was to be Assistant Magistrate of Darbhanga, and the appointment of Kumar Upendro Krishna Deb under the Rules of 1879 was to be a member of the Bengal Civil Service.

"There is no doubt that the omission of the words 'office' and 'place' in the rules of 1879 was meant to supersede the idea of appointment to specified posts, which evidently was the aim of the rules of 1875, but it seems more likely than not that the attention of the Commission was not drawn to the change in language in the two rules, or to the manner in which the appointments had been made under the two rules. It is not my intention to go behind these rules, but accepting the Public Service Commission's theory I beg to ask, is there any justification for this two-third pay rule?

"The appointment to specified posts ought to carry with it the emolument of the last incumbent. The Public Service Com-

Digitized by srujanika@gmail.com

mission do not support this distinction in pay, and think the distinction is 'invidious and indefensible'. If the recommendations of the Public Service Commission ought to be accepted at all, they ought to be accepted in their entirety. Why accept them only so far as they relegate these Civilians into a lower service, and reject them so far as they go to show that the distinction in pay is 'invidious and indefensible'? This is neither justice to the Statutory Civilian nor courtesy to the Public Service Commission.

"In reply to my appeal last year, the Hon'ble Mr. Buckland said that there was no reason why native officers should receive the same pay as Europeans for doing the same work in India. I beg to submit that there is no difference of pay in the case of European and Native members of the Covenanted Civil Service, no difference of pay between European and Native District Superintendents of Police, and no difference of pay between European and Native Deputy Magistrates. The two-third rule does not exist anywhere, except in the Civil Service Regulations, and there too are the qualifying words 'unless otherwise ordered'. This shows that the Government has reserved to itself the power to make an exception in any case they like and to give full pay in cases of exceptional merit. May I be permitted to ask if there is not a single member of the Statutory Civil Service, who, by reason of meritorious services or otherwise, ought to benefit by this qualifying clause. The members of the Statutory Civil Service complain and feel that they are unjustly treated, and yet most of them are now employed as District and Sessions Judges. A District and Sessions Judge is not only the head of the Judicial Administration of a district, but he is also the exponent of British Justice to the people. Is it desirable that so high a functionary should live in the painful consciousness of having been unjustly treated by the Government he serves?"

19. Welcoming Sir Edward Baker, the New Governor of Bengal*

The Hon'ble MR. DAS said: "Your Honour, you have received greetings of welcome from one Indian nobleman — one who is

*Proceedings ibid, 1909, p. 2.
Date — 30 January 1909.
Sir Edward Baker presided.

Digitized by srujanika@gmail.com

perhaps the oldest among the Non-Official Members of this Council, oldest in the ordinary sense, and oldest perhaps in my association with the proceedings of this Council. I consider it my duty to offer Your Honour our sincerest felicitations and respectful greetings of welcome as President of this Council and as Ruler of Bengal, Bihar and Orissa. For some time past we have hoped to welcome you as the Lieutenant-Governor of Bengal, and we are thankful that God, in His infinite wisdom, has entrusted the reins of Government to your hands, which I consider to be a most important event in the history of the country. When a vessel, Sir, is overtaken by a storm, the man at the helm steers it with a firm and steady hand; and while he steers the vessel steadily along the route, leading her to her port of destination, he is not unmindful of the lives entrusted to his care. Sir, I believe that personality is an important factor in any scheme of administration, and it is especially so in India. Laws are necessary, Legislative Councils are necessary, and laws are sometimes necessary even as surgical instruments. Sir, inventors and manufacturers of surgical instruments readily deserve the gratitude of the world, but the value of a surgical instrument to a particular patient depends on the skill of the surgeon.

"Sir, we are thankful to you for Your Honour's intention to visit Orissa three weeks hence. Orissa has no attractions of pleasant memories associated with Your Honour's past official career; and yet, notwithstanding that, that Your Honour should have decided to visit that part of the country under Your Honour's rule, within so short a time of having taken over the reins of Government, and amidst numerous engagements at this time, makes us hope that Your Honour's rule will be characterized by reformation, direct touch with the people, and entire sympathy for India.

"May God grant you health and strength, so that Your Honour may rejoice in extending to the people under Your Honour's rule the full benefits of the coming reform, and when, in the fullness of time, Your Honour lays down the reins of this Government, may history look upon you, Sir, as the illustrious vision who worked out in Bengal the glorious mission of England, the extension of the blessings of civilized life."

Digitized by srujanika@gmail.com

20. Deputy Port Officer, Calcutta*

The Hon'ble MR. M. S. DAS said:

I beg to draw the attention of the Government to the following letter published in the *Statesman* of the 2nd March, 1909:

"DEPUTY PORT OFFICER, CALCUTTA

"TO THE EDITOR OF THE 'STATESMAN'

"Sir, — I see in a recent issue of the *Statesman* that the new post of Deputy Port Officer of Calcutta has been created in order, among other things, to allow the Port Officer more time for the supervision of the Orissa ports. Those ports are already groaning under the heavy burden of unnecessary expenditure. It is for the member of Orissa to ask the following questions in Council:

"1. What is the annual travelling allowance of the Port Officer of the Orissa Ports?

"2. Of the sum allotted, how much is paid towards travelling to Puri, Balasore and Cuttack?

"3. Whether it is necessary for that officer to make frequent visits to those three places?

"It will be interesting to know if the Port Officer of Calcutta or the Accountant-General, or both, are responsible for the neglect to effect a saving when there is plenty of room for it.

"X - Y"

"March 1"

With reference to the above letter, I wish to ask the following questions, namely:

(a) Is it a fact that the new post was created to allow the Port Officer of Calcutta more time for the supervision of the Orissa Ports?

(b) Was it to provide for more frequent or more efficient supervision that this was done?

*Ibid, p. 25.

Digitized by srujanika@gmail.com

(c) Will the Government be pleased to name the amount of travelling allowance given to the Port Officer of the Orissa Ports ?

(d) How often has the Port Officer of Orissa visited Cuttack, Puri and Balasore during the current year, and what is the amount of travelling allowance he drew in visiting each of these ports ?*

21. The Bengal Financial Statement for 1909-10†

The Hon'ble MR. DAS said: "Your Honour, on a previous occasion when I represented Orissa, from my seat in this Chamber I said that a non-official Member of this Council was an interpreter between the Government and the people. On that occasion my interpretation of a non-official Member's position was endorsed by our illustratrious countryman who now is an Hon'ble Judge of the High Court — the Hon'ble Justice Ashutosh Mukherjee. My duties are to bring to the notice of Government the views and the feelings of the people and to explain to the people of Orissa the reasons which influence Government in their action, the object Government have in adopting particular measures, and how such measures are calculated to affect the interests of the people.

"My personal views and opinions I should not allow to ride over those of the millions whom the Budget affects. I read the budget as the people of Orissa would read it.

"Looking at the allotments in the budget under the several sub-heads of education, a disparity in the distribution of the funds is visible. The people were hitherto under an impression that Orissa was left in the cold because her claims had not been eloquently advanced. That of the three children, Bengal, Bihar and Orissa, the most eloquent commanded the attention of the paternal Government. But Your Honour's salutary advice given at the last sitting of the Council with regard to speeches in Coun-

*Mr. A. S. Thomson in reply said:
(a) No, the necessity of allowing the Port Officer more time for the supervision of the Orissa ports was not one of the reasons for creating the post of Deputy Port Officer of Calcutta.
(b) No.
(c) The Port Officer draws travelling allowance according to the rules of the Civil Service Regulations.
(d) The information will be called for and communicated to the Hon. Member at the next meeting of the Council.

†On 5 April 1909. Proceedings, ibid, p. 100.

Digitized by srujanika@gmail.com

cil is calculated to remove that impression, and we have reason to hope that whatever reasons might have guided the Bengal Government in the past in the allotment of funds to advance education in the three provinces under that Government the 'most eloquent and the most clamorous should be first attended to' (which is the rule some parents go by) will not be the rule of Your Honour's Government.

"In Bengal the people appreciate the advantage of high education. High education has been a long-standing plant in Bengal; it has struck a root in the province; it has borne fruits. The private colleges testify to the appreciation of the benefits of high education by the people. Colleges have been run on commercial lines. They are in some cases a source of income to the proprietors.

"Add to this the fact that the permanent settlement has raised a rich aristocracy. The condition of the people is more prosperous. Of the three provinces under this Government, Orissa has been under British rule during the shortest period. She is the youngest and the poorest child, yet Orissa has made progressive contributions to income under Land revenue. The people of Orissa think that their claims ought to have preferential attention. But the Budget allotments point the other way.

"I find in the Budget under discussion an allotment for Law classes at Bankipore but none for Orissa. I hold in my hand a letter which contains a promise for Law classes in Orissa should the number of students be sufficient. We are thankful to Government for having awarded six scholarships to students from Orissa who come to Calcutta to read Law, but that has already been found insufficient. I know that already ten applications have been made and by the time the result of the B.A. Examination now being held will be published there will be fully another ten applications.

"The number of students in a class is not a proper test of the appreciation of education among a people in the early stage of a foreign education. B.L. candidates from Orissa have in past years distinguished themselves in the University. One year a student of the Cuttack Law classes stood at the top of the successful B.L. candidates.

"The principle which ought to guide the Government in giving backward Orissa facilities for education ought to be sought in

Digitized by srujanika@gmail.com

the budget allotment of Bengal during the few years which followed the first introduction of law as a subject of study in Bengal.

"There is another test by which to judge whether people appreciate high education or not. This is the contribution by the people towards this object.

"There are some colleges in Bengal where Government scholarships are given in recognition of private donation towards the funds of the college. An inquiry will disclose facts in support of this statement. The Government College at Cuttauk and the hostel attached to it have received private donations to the extent of nearly Rs. 38,000. This is not in any way discreditable to a poor province. But there has been no recognition by Government of this private liberality as in Bengal. The College at present is inadequately equipped, the details of which are given below.

Wants of the College

I. Affiliation:
   (a) In History for Intermediate and B.A.
   (b) In Physics for B.A. or B.Sc.
   (c) In Botany for B.A. or B.Sc.

II. Strengthening the staff:
   (a) A Lecturer-demonstrator for Chemistry (Immediate)
   (b) A third Lecturer for English (Immediate)
   (c) Two Professors for History
   (d) A Lecturer-demonstrator for Physics
   (e) A Lecturer-demonstrator for Botany

III. Building accommodation:
   (a) Eight or nine rooms for the Arts classes, of which two should be at least 40′ × 25′
   (b) Rooms for Library, Reading room, Students' common room, etc.
   (c) Examination Hall

Digitized by srujanika@gmail.com

IV. Special grants for the

(a) Library

(b) Chemical, Physical and Botanical Laboratories

(c) Water-supply for the Laboratory

V. Playground

"The Cuttack Collegiate School is the only one under Your Honour's Government which counts among its students ruling Chiefs. The Maharaja of Mourbhanj was educated there. The importance of education of these Chiefs who are destined to rule over large populations cannot be over-estimated from a political point of view.

"Besides the Cuttack College counts among its students many Bengalis who accompany their guardians who are transferred on public service or who are drawn there by considerations of cheap living and healthy climate. Every one who had something to do with the students of the Cuttack College will support me in my statement that in the case of Bengali students the cause of discipline, the interests of good manners have not suffered, if not gained, by their education out of Bengal, and the interests of the British Empire in raising up loyal subjects among the educated class have not suffered.

"On a consideration of the advantages which Bengali students get by attending the College at Cuttack, I hope my appeal to Your Honour on behalf of that College will receive the support of the Hon'ble Members who represent Bengal proper.

"For some time past the people of Orissa have been promised an Engineering School. This was promised on condition that the people contribute Rs. 20,000 towards the initial cost. I remember having visited suitable sites in the company of a former Lieutenant-Governor and of a Director of Public Instruction, now retired. Only a few weeks ago I was asked by the Commissioner whether I was willing to raise twenty thousand rupees as I had promised. I moved in the matter and I got promises from friends. But I do not see any allotment for it in the Budget before us.

"Under the head of Female Education I find provision for training schools for female teachers at Bankipore and Calcutta, but no provision for Orissa. Female education has as good pros-

Digitized by srujanika@gmail.com

pects in Orissa as it has in any other part of the country under Your Honour's Government. The absence of early marriage among the higher classes is not an insignificant factor in judging of the prospects of female education. It is true that female education in Orissa has not made the same progress that it has done in Bengal, but no attempt has been made on proper lines. Female education is a delicate subject and a most difficult matter to deal with. There is no subject which imposes on Government officials greater obligation of corsulting the feelings of the people.

"Rules made for grants-in-aid to boys' schools ought to be modified. The powers of Magistrates who never visit a girls' school, never give a moment's thought to the subject of female education, to interfere with its management merely for love of interference ought to be curtailed. The management ought to be left in the hands of the people who support a school or send their daughters to the school and not to European Magistrates who delight in disturbing harmonious working on grounds uninelligible to the non-official public, and therefore apt to be misconstrued.

"The last census figures show that the percentage of literate population among females in Orissa is double that of Bihar.

"Government sent to England a Bengali lady to study the system of female education in England. She studied as a Government scholar. Orissa sent a lady the costs of whose education were paid from private resources. Since this lady's return from England a girls' school has been taken in hand. The Director of Public Instruction calls it 'the first really successful effort in the way of Uriya female education'. But to make female education successful in Orissa we must have trained female teachers. The teachers must be trained in the vernacular of the Province. I do not know what rule Government goes by in providing for training female teachers in Bihar and Bengal and disregarding the claims of Orissa. If the extent of public contribution is the test, I feel sure the people of Orissa will not lag behind Bihar in that matter, but no opportunity has been given to them. My hopes of public liberality in this matter are based on the liberal support which the girls' school referred to above received at the hands of the Orissa public — the public having subscribed about nine thousand rupees towards the funds of the school in one year.

"I am not in favour of mendicancy, and I shall be the last person to teach it to my people. I believe in the old saying,

Digitized by srujanika@gmail.com

'Heaven helps those who help themselves', and I hope Government appreciates the principle underlying this old saying.

"The Medical School at Cuttack from the date of its foundation has received support of public liberality. The latest donation was a sum of rupees twenty-five thousand towards the construction of a female ward. The School is attended by a large number of Bengali boys, and therefore any grant towards the better equipment of this School will not be an advantage to Orissa exclusively. I am thankful to Your Honour's Government for the provision of scholarships for Uriya students and for a grant of Rs. 3,000 when Your Honour visited the School.

"The Budget does not represent a state of financial prosperity, and therefore, my demands in the interests of education might not meet with Government approval, but, as I said at the commencement, I am here to lay before Your Honour the views and feelings of the people of Orissa.

"*Revision of Land-settlement* — There is a large allotment for maintenance of land records and revision of settlement.

"It would be irrelevant to enlarge here on the unpopularity of the revision of settlement work. There is a marked difference of opinion between the people and the Government on the utility of the measure." Any one anxious to ascertain which view is correct may do so by visiting without previous notice a settlement camp as a distinguished English Journalist did. He visited some camps at 11 o'clock at night, saw the people and ascertained their views.

"It is admitted that the main object of this measure is to reduce the costs of the next revenue settlement of Orissa which comes about twenty years hence. The Hon'ble Member in his explanatory remarks said that 'Government has been advised that this is a work of much urgency and that it will be much more economical to push it through rapidly than spread it over a considerable number of years'. Revenue settlement work means an increase of Revenue. The enhanced assessment of each settlement means so much contribution from people's income to the Government exchequer. The people of Orissa make this contribution. Bengal is free from this liability.

"If the Government can afford to provide large sums for different branches of education in Bengal, notwithstanding that it

Digitized by srujanika@gmail.com

has to make large provisions for unforseen anarechism and sedition, I hope the request of the people of Orissa will not be considered unreasonable if they ask that the revision of settlement work might be spread over a few years so as to enable Government to make provision for education in the present budget with only a portion of the large amount allotted for the work.

" The reasons for the urgency of the measure are unknown to the people. The protection of the rights of the poor raiyats from the encroachment of oppressive zamindars cannot be any of those reasons; for we know that records-of-rights were made about ten years ago in Orissa, whereas in most parts of Bengal proper there has never been any record-of-rights. The records of Courts of law if examined will show that the relation between zamindars and raiyats in Bengal is more unfriendly than in Orissa. Under these circumstances is it any wonder if the people fail to see the justice of the provisions for education in Orissa in the present budget?

" There is a provision of Rs. 59,000 for ' Maintenance of records-of-rights in Orissa '. The work that is being done now is in the nature of an experiment. This experiment is expected to suggest the lines on which legislation is to be made for maintenance of records-of-rights.

" It is difficult for the people to understand why Orissa should have been selected as the field of experiment. Bengal, where the people are more advanced, better acquainted with the nature of their rights and better able to defend and define those rights, would have been a more suitable field for experiment. Experiment to be useful as guidance for the evolution of a scheme should not be made in a tract where the people are ignorant. Besides, what is the legal value of records made without the sanction of law? Moreover, it is in contemplation to re-cast the scattered legislative enactments now constituting the land-law of Orissa and pass a consolidated Act defining the legal incidents of the several kinds of interest in land in Orissa. There was a Conference the other-day on this subject. This change has been found necessary because the land-law of Bengal does not suit the conditions of Orissa. A change in the near future is before us. With this prospect of a change in the law, is it economical to hurry on the revision of records under a law which Government have found necessary to alter? What would be the value of these records if the contemplated Act is passed? Either the law

Digitized by srujanika@gmail.com

will remain a deadletter or the records must be altered to comply with the new law.

"If twenty years hence the people are expected to contribute a portion of their income to the Government revenue, is it unjust and inequitable of the people to expect that a portion of the present revenue should be spent in providing education on lines which are calculated to compensate for the loss ahead? Is it fair and just that education should be postponed in order that saving might be made in the preparatory measures for the next revenue settlement? These are questions which naturally suggest themselves to the people. All I expect is that explanations on these points should be given if the Government do not see their way to transfer a portion of the amount allotted for these purposes for educational purposes.

"It is wise to feed the goose which lays golden eggs. Every school boy knows it is unwise to kill it: it is equally unwise to stint its growth. The shepherd who invests in shearing tools all his funds and in the meantime neglects the well-being of his sheep will not win the reputation of a wise shepherd. If the maintenance of records-of-rights in lands is necessary, have it by all means. But there is another record and a more valuable one. The temple of Bhubaneswar, Puri and Konarak testify to the capabilities of the people prior to the days of British rule. The maintenance of this record is more valuable. A few thousand rupees spent on repairs to these edifices might preserve the handiwork, but the intellect which designed them and the hand which executed the design have disappeared. These monuments of past glory serve only the purpose of weeping willows under which the present generation might weep over their loss. The people of Orissa have a history worthy of any people in India. They have a glorious future in their unexploited natural resources. But these treasures lie concealed in the dark cells of ignorance. Let the light of education shine on those dark places. I hope Your Honour's name, which has been associated with progress in Bengal, will also be associated with progress in Orissa, and whatever value posterity might attach to record of land, it will be Your Honour's share to have maintained the records of a people's intellect.

"*Increase of Salary of Advocate-General* — The budget provides for an increase to the salary of the Advocate-General. The present pay was found sufficient to secure the services of illus-

Digitized by srujanika@gmail.com

trious lawyers like the late Sir Charles Paul, Mr. Woodroffe and the Hon'ble Mr. S. P. Sinha. I have no doubt that there is reason for this increase of pay, but I hope it is not the intention of Government, as rumour has it, to bring out a lawyer from England for the post. We know that in Madras a Vakil was appointed to the post. It would be placing an undeserved discount on the erudition and experience of the Barristers and Vakils in Calcutta if the office were filled up by a gentleman from England.

"*Fisheries* — A large sum has been set apart for Fisheries inquiries. It appears from the remarks of the Hon'ble Member who introduced the budget that it is in the contemplation of Government to leave the industry ultimately to private enterprise. If that is the object, it is desirable to avoid all measures which are likely to be misconstrued as attempts on the part of Government to turn it to an additional source of revenue to the prejudice of private rights.

"I don't know how the action of Government has been construed in Bengal, but there have been acts by Government officials in Orissa which have been construed as attempts to encroach upon long-enjoyed rights of fishery over natural waters.

"I find a provision for scholarship for the study of pisciculture in Europe and America. The study of an industry in a foreign country is useful to the country, if the student on his return to India finds employment under private employers. Capital is shy of enterprise in this country. Government sent out students who returned as expert agriculturists but spent their time in presiding over Law Courts. It is far more economical to subsidize private enterprise in these matters. It ensures employment of developing a new industry at a small cost. There are estates with considerable fishery industry in Orissa. The owner of one estate was thinking of improving this industry. Gentlemen of this type ought to be induced to help Government in this matter. This procedure will ensure public confidence in the intention of Government, ensure employment to the student on his return to India and facilitate the dissemination of new information on the subject among the people.

"At page 14 of the budget the allotment under the head of Civil Works shows an increase in the cost of Establishment,

Digitized by srujanika@gmail.com

whereas there is a decrease in the cost of Original Works and Repairs. The total cost of Original Works and Repairs in 1907-8 was Rs. 61,33,592. The revised estimate of 1908-9 gives the figures at Rs. 50,14,000 and the estimate for 1909-10 is Rs. 33,13,000. The cost of establishment during these years is Rs. 9,59,300, Rs. 10,20,000 and Rs. 11,61,406, respectively. Is the rise due solely to annual increments in the salary of the establishments ?

" The note in the remarks column in page 29 of the budget shows that District Boards did not appropriate grants for primary schools. If this was due to the inability of the people to comply with the terms of the grant, it is desirable that the terms should be modified so as to suit the conditions of each district in consultation with local officials of the Education Department.

" *Famine Relief* — Famines cannot be altogether prevented, because man cannot control the clouds. The rigour of famine distress is felt by the population dependent on agriculture. The population of this class is very large. I believe about 85 *per cent* of the population are dependent on their subsistence upon the produce of the land. This means that by far the major portion of the population depends for their means of subsistence on the uncertain mercies of the clouds above.

" The average cultivator is but a day-labourer. The area of his holding is barely sufficient in years of good crops to keep him alive. He has no capital. He is a labourer with this disadvantage against him, that while the labourer who works for another gets his wages every day, the cultivator has to wait till the harvest for his wages; and when the harvest fails he loses his wages for the whole period of his labour.

" This is exactly the relative position of the two classes. It is a mistake to suppose that the average raiyat's condition is better than that of the day-labourer. It is desirable to relieve the pressure on latter to draft a portion of the cultivating classes to other pursuits of life which ensure a certain income. The development of industries is the only means of effecting this. In industry the burden of the loss, if there is any, is thrown on the capitalist; the workmen are sure of their wage.

" Famines afford a favourable opportunity for drafting a portion of the cultivator class to other pursuits of life. In ordinary

Digitized by srujanika@gmail.com

times the cultivator will not change his occupation. His ideas of caste system and his conservative turn of mind are against any change. But in time of adversity, these barriers to changes lose their strength. In times of famine even the conservatism of caste in matters of food is relaxed.

" Famine-relief labour is sometimes employed in works which are not in demand, whose utility is either doubtful or disproportionate to the money spent on it.

" My humble suggestion is that a portion of the famine-relief fund should be appropriated to teach people who depend on cultivation some handicraft which will secure to them a certain income as skilled labourers. It will require great tact on the part of those entrusted with the duty to induce the people to such a change, but I have no doubt that any persuasion will succeed. The success might not be very encouraging at first; but the better condition of a few who adopt the change will be a powerful motive with their neighbours to follow their example.

" If the Government be disposed to adopt the principle and consider it worth their while to have my humble views on the details of the scheme, I shall only be glad to discuss the details with officials appointed for the work."

22. The Assassination of Sir William Curzon Wyllie*

The Hon'ble MR. DAS said (on 13 July 1909):

" Less than two years ago it was my privilege to meet the late lamented Sir Curzon Wyllie. For an Indian in England to know him was to forget that he was among strangers in a foreign country. One found in him a friend who was in quest of opportunities to be a guide to his feet and a light to his eyes in a foreign land. In life he testified to the Englishman's courtesy and kindness towards the stranger: in death he glorified the noble virtue of benevolence.

We look upon his death with feelings of intense grief, and feel it our sacred duty to express our condolence to Lady Wyllie in her irreparable loss and to the bereaved family of Dr. Lalcaca, who met with death in the noble efforts to save an innocent and precious life.

*Ibid, p. 150.

Digitized by srujanika@gmail.com

I cannot find words to express my feelings towards the loathsome perpetrator of the crime. To call him a murderer or an assassin is to do him an honour, for murder and assassination have sometimes been committed in vindication of violated rights or in the precipitancy of wounded feelings. Human nature in its lowest depths of degradation and debasement does not furnish the colours wherewith one can paint this man's character. He reminds one of the snake in the fable which bit the hand which fed it with milk. The man whose mind, though educated, conceived such a crime must have a viper's head on human shoulders. It is the viper's head which converts healthy food into deadly poison.

The perpetrator of this detestable crime when produced before the Magistrate claimed to be ranked among the patriots of India. His associate during the last few moments of his life will be the hangman, and that will show how his claim is received by the custodians of Justice and Law; but it is the duty of our leaders, specially those who have opportunities of influencing the rising generation, whether such influence is exercised from the political platform, the lecture-room, the editorial desk or in friendly intercourse, to pronounce in unequivocal and emphatic terms their estimate of the man and the crime.

I believe that a false conception of patriotism and a desire to secure the glorious memory of a patriot at a cheap price are responsible for the whole series of anarchist's crimes recently perpetrated. Neither the Indian Office nor the Government of India are responsible for these false conceptions — these mistaken ideas. We Indians are responsible for those dangerous conceptions which have converted some youthful minds into the anarchist's workshop. I am not sure that the public demonstrations in connection with some of these crimes did not put a cheap price on the glorious memory of a patriot.

The life of a young man without any idea of his responsibilities as a citizen of an Empire, of his duties and obligations as a member of society, who is yet engaged in study with a view to learn these, is a cheap price for the glorious memory of a patriot. A patriot's glory ought to be the share of a man who works for the good of his country, and if he dies in the struggle he meets with death at the hand of his country's enemies. The wreath of patriotism ought not to crown the head which plots cold-

Digitized by srujanika@gmail.com

blooded murder. The hangman's noose is the fitting decoration of such a man. This he is sure to receive, and the public ought to cast his memory into a pit of ignominious oblivion.

The time has come when all subjects of the British Empire should sink their differences in colour, creed, caste and political views, and denounce in terms emphatic and unequivocal these dastardly crimes and speak of their perpetrators in befitting terms of contempt and indignation. The father and the family of Madan Lal have given us their estimate of the foul deed, and it is to be hoped that will be accepted as the right standard whereby the public, and especially our young men, should judge these misguided pseudo-patriots.

23. Questions and Answers*

PILGRIMS TO PURI

The Hon'ble MR. DAS said:

I beg to draw the attention of the Government to the following extract from *The Star of Utkal* of the 10th July 1909:

"Pilgrims to Puri for the last Car festival have addressed a number of complaints to the public papers like the *Bengali*, *Amrita Bazar*, *Basumati*, *Anand Bazar*, and others. A Midnapore correspondent thus writes to the *Anand Bazar* of 1st July 1909 — 'On 22nd June last a goods train composed of 80 wagons passed down the Midnapore station. The wagons had double the number of men they could properly accommodate. They were huddled up like goods in this hot season. Proper arrangement had not been made for drinking-water. It is said that some dead bodies were found in the train; that they had died of cholera. It is further said that when the train stopped at Kharagpur, fifteen dead bodies were found'.

"All this may be gross exaggeration. But none can have any reason to malign the Company for nothing. As Orissa is greatly interested in the pilgrim traffic, and as it always suffers heavily from cholera disseminated by the pilgrims, we hope the Orissa representative in the Council would ask Government how much of the allegations is true".

*Ibid, p. 156. Date 27 July 1909.

Digitized by srujanika@gmail.com

I request that the Government may be pleased to lay on the table the replies of the Bengal-Nagpur Railway authorities to the following questions:

(a) What was the number of special trains which ran to and from Puri to carry pilgrims during the last Car festival (*Rath Jatra*) ?

(b) Is it true that most of these special trains were made up of goods wagons ? If most of them were not so, please state how many of them were.

(c) What is the total number of passengers which these special trains carried to and from Puri on the occasion of the festival ?

(d) Did the passengers who were carried in goods wagons pay the ordinary fare ?

(e) Was any special arrangement made in the stations along the line for the supply of drinking-water ? If so, please state how many extra *paniwallas* were employed, and at which stations they were employed.

(f) Is it not a fact that many dead bodies were found in the trains ? Was any record kept of them ? What was the total number of dead bodies ?

(g) Is it not a fact that cholera patients travelled in these special trains ? Was any attempt made to prevent such patients travelling; if it was, please state what preventive measures were adopted. Was any separate accommodation provided for patients who had cholera, or complaints which very often develop into cholera ?

(h) Was any arrangement made for removal from the railway carriages of dying patients ? If there was any such arrangement, please state the nature of it.

(i) Was any lavatory provided in goods wagons pressed into passenger service during the festival ?*

*The Hon'ble SIR CHARLES ALLEN replied:

"The replies of the Agent, Bengal-Nagpur Railway, to the Hon'ble Members's questions are laid on the table".

Replies of the Agent, Bengal-Nagpur Railway

(a) Seventy-two special trains were run to and from Puri to carry pilgrims during the recent Car festival (*Rath Jatra*).

(b) Yes, it is the case that most of these special trains were made up of goods wagons. To provide the 72 special trains 14 rakes of vehicles were utilized, and of these 11 consisted of goods wagons and 3 of

Digitized by srujanika@gmail.com

24. Bengal Excise Bill 1909*

The Hon'ble MR. DAS said: " It has just been brought to the notice of this Council that the Excise Department in its working differentiates the two kinds of *tari* — fermented and unfermented. This was not brought to the notice of the Select Committee. I do not know yet how they differentiate the two. I should be the last person to advocate any Excise law which is based on no higher principle than revenue consideration, and certainly, Sir, anything which has been found to be used among the people as an article of food, an innocent drink, should not be brought within the purview of the Excise law. In the case of *tari*, the defini-

---

coaching vehicles. The number of goods wagons on one train usually was 40 and the number of coaching vehicles on one train 30.

In addition to this the composition of the mail train and the two ordinary daily trains was strengthened, each of the latter being capable of carrying 1,600 passengers.

Goods wagons were utilized for the conveyance of pilgrims, as this Railway was unable to provide sufficient coaching vehicles to cope with the rush. The East Indian Railway, Eastern Bengal State Railway and the Madras and Southern Mahratta Railway were requested to lend coaching stock, but only the East Indian Railway was able to do so. They lent 50 coaches.

(c) The number of pilgrims is estimated at 90,000.

(d) Yes.

(e) Yes, special arrangements were made for the supply of drinking water, and thirty-one extra *paniwallas* were employed. These extra men were employed at Machada, Khargpur, Danton, Balasore, Bhadrak, Jenapur, Baitarani Road, Bhubaneswar, Khurda Road, Sakhigopal, Cuttack and Puri.

(f) Yes. Records are with the Police Department, as each case was dealt with by them. The actual number of deaths which occurred in trains was nineteen, four of which were in trains going to Puri and fifteen in trains returning from Puri.

(g) No cholera patients travelled in these special trains. No person was allowed to travel who showed any symptoms of sickness.

(h) Yes; all such cases were removed from carriages, which were vacated and promptly disinfected.

Cases occurring at stations where medical attendance was not available were placed in isolated carriages and sent to the nearest station where medical aid could be obtained.

Carriages used for the conveyance of cholera patients in such cases were promptly disinfected.

(i) No lavatory accommodation was provided in goods wagons, as it was impossible to do so, there being no means by which such arrangements can be fitted.

(No separate accommodation was provided, as no cases were allowed to travel.

The Medical Authorities, at stations where posted, were in attendance on trains arriving, and cases coming to their notice were promptly dealt with.

Extra medical staff were employed at Puri, and all incoming and outgoing trains examined by them.)

*Ibid, p. 162.

The Bill was moved on 27 July 1909 by Mr. W. C. McPherson.

Digitized by srujanika@gmail.com

tion includes unfermented and fermented juice. I was one of the persons who accepted this regulation, and I do it even now for this reason that it is extremely difficult for the Excise Department to control the consumption of this thing, because unfermented *tari* becomes fermented after a short time. Now, how long should it be outside the Excise law? When should it be taken under the control of the Excise Department? As the great object of all Excise legislation should be to have control over the use of such things or articles which are used as intoxicating substances, if there is any difficulty in exercising that control, certainly that control should have prominence over every other consideration. I should have been glad if the Hon'ble Member who wants to distinguish the unfermented from the fermented had thrown out some hints of a practical nature which would have been of help to the Excise Department to exercise the necessary control over this excisable article.

The Hon'ble MR. DAS continuing the discussion said: "The Hon'ble Members — the non-official Members to my left, have supported this amendment, and they have also said, Sir, that this amendment has been pressed before Your Honour in consequence of public feeling. The Hon'ble Sir Charles Allen has brought forward certain considerations which certainly ought to have weight in this Council. The question is the employment of the children of the vendor himself, and also it may be the employment of other children who are taken into service. As regards the children of the vendor himself, the argument that their employment in the premises would bring within their knowledge, at an early date, the undesirable scenes of an objectionable house ought not to carry much weight, Sir, because at any rate, perhaps, the vendor's children will be frequently going to the place and seeing these scenes there without even being employed. There is another view of the question and that is, it is not only what should be the age of the child employed. We should not look at the question only from the point of view that he is likely to degrade himself at an early age, but there is another view of the question and that is, at what age do the susceptibilities of such temptation develop in a child? I cannot imagine that a child of 7 or 8, even if he were to see these scenes of drinking propensities, would remember them again. The real question is at what age in this country the susceptibilities of degradation develop, and when is it likely that a child in this country would imitate the doings of

Digitized by srujanika@gmail.com

others who are in the power of such degradation. The question is not free from difficulty, but if we, I submit, Sir, adopt the age that has been accepted in England, we shall at least have the force of conviction; and considering there is much public feeling, and considering that the difference in two years will not make much difference, I submit respectfully that we should be acting prudently if we accepted the English age, I do not attach any importance whatever to the age of majority because a man, when he is grown up, unless his character has been formed, if he is thrown in environments which are likely to lead him to ways of evil, is more likely to be led away to the paths of evil than when he is a child".

24 A. The Bengal Excise Bill, 1909*

The Hon'ble MR. DAS, with the permission of the Hon'ble the President, said: "Within the last few weeks the Vernacular Press of Orissa have urged the necessity of legalizing the import of Garjat *ganja* and *bhang* into British Orissa.

"I have always considered it my duty to bring to the notice of Government the feelings and legitimate demands of the people. The Bill now under discussion does not contain a schedule of the excisable articles the "import" whereof will be permitted by Government. That is left to the Local Government. I cannot move an amendment in response to the wishes of the people, and I am not aware of any other opportunity to communicate to Your Honour how the existing rules regarding Garjat *ganja* are viewed by the people and how far the present arrangement has been successful in suppressing the smuggling and illicit consumption of the article.

"The object of all excise laws and rules should be to give the Government a control over the use of intoxicating articles by the people. This control should have a repressive, and not an encouraging tendency. Direct control is impracticable, because the Government cannot undertake the duties of the moral or social reformer; it is impolitic, because direct repression could not be tolerated by the mildest people when they learn their rights in this matter. Direct control of any sort would be outside the

*Ibid, p. 184. Date 28 July 1909.

Digitized by srujanika@gmail.com

scope of Government's duty. A Government which takes upon itself to interfere with the people in the choice of excisable articles for their use exercises a sort of censorship over the taste of the people which would place a discount on its claims to be a civilized Government.

"The imposition of an excise duty is a kind of indirect control which has the sanction of the whole world. It is a check on excessive and consequently injurious indulgence in intoxicating substances. The duty and consequently the Excise revenue must rise with the growth of the habit. These are, Sir, the fundamental principles which ought to regulate Excise administration.

Long before the Bengal Government formulated any scheme for the control of consumption of *ganja* and *bhang* in Orissa, the people had been accustomed to the use of Garjat *ganja* and *bhang*. *Ganja* was never cultivated in the Garjats, and yet it was and is even now found in large quantities. The Garjat *ganja* differs even in appearance from the Rajshahi cultivated article. No special training of the eye is necessary to distinguish the two articles. The Garjat *ganja* possesses a lower intoxicating strength, and is said to possess certain medicinal properties. This makes it a favourite luxury with those who make a drink of it in combination with a few other aromatic drugs having medicinal properties.

"The unanimous testimony of those who habitually use it as a drink points to its superior medicinal properties. I cannot lend the support of my personal experience to this testimony, but none of the Hon'ble Members representing the interests of Excise administration in this Council can oppose it by the weight of his personal experience.

"Regarding drink which is known as *bhang*, the Hemp Commission say:

> There would seem to be a general use of *bhang* in moderation as a stimulant and digestive by the middle classes, especially in advancing years. Some of the most intelligent and enterprising classes of the community are among these who thus use *bhang*.

"The Garjats being outside British India, the Excise Department found it difficult to raise the estimated revenue from the

Digitized by srujanika@gmail.com

consumption of Rajshahi *ganja* without stopping the illicit consumption of the Garjat *ganja*. To this end various schemes were tried, but each failed. At last the system now in existence was introduced. Under the existing system, the Government supplies Rajshahi *ganja* at cost price and free of duty to the Tributary States. The States levy the duty, and this goes to increase their revenue. In return for this, the Chiefs undertake to prohibit the growth of *ganja* in their States. Any one who has travelled through the Garjats and observed how the little villages lie scattered miles away from each other, with intervening thick jungles which are the haunts of tigers and wild elephants, and who has also examined the numerical strength and pay of the officers set apart for excise work in these States, must have been convinced that in the case of the small States at least no seriousness was attached to the undertaking.

"If it were possible for the Hon'ble Mr. Geake to hear all the admissions I have heard from persons who are habitual consumers of the Garjat *ganja* in the form of a drink, I have no doubt he would have pleaded with all the weight of official authority for the abolition of the existing arrangement. The middle and the rich classes, especially among the residents of Puri who use Garjat *ganja* as a drink, pay fabulous prices for the smuggled article.

"What then is the result of the existing arrangement? The consumer pays an exorbitantly high price. This is a premium on smuggling. When high price is the indirect result of heavy Excise duty it adds to the revenue which is spent for the benefit of the public. In the present case the high price fills the pocket of a clever smuggler.

"The partiality of the consumer to this particular drug, added to his readiness to pay exorbitantly high prices, exposes the subordinate officer of the Excise and other departments to temptation. But the worst result of the system is the successful evasion of the penalties of law during a long period. I consider it the worst result, for a systematic evasion of law engenders a disregard for law which it should be the duty of every Government to avoid, and yet a system of Excise administration which is formulated without any regard to the taste and habits of the people and which aims to force them to take to an excisable article which they are not accustomed to and which by experience they have found in-

Digitized by srujanika@gmail.com

jurious to health — such a system of Excise administration is bound to prove a failure.

"The existing arrangement was introduced, because it had successfully stopped the cultivation of *ganja* in Cooch Behar. The similarity between Cooch Behar and the Tributary States of Orissa does not go beyond their political status as Tributary States. No one stopped to inquire whether the States in Orissa were similar to Cooch Behar in the extent of their jungles and the strength of the official staff available for controlling illicit growth and import. "No one stopped to inquire whether in the neighbourhood of Cooch Behar there were a class of people who considered the hemp grown in that State as having special medicinal properties and who were prepared to have it at any price.

"Is the Government justified in forcing upon the people an intoxicating drug which they do not like and which their experience pronounces injurious when used as a drink? Should not the people be left free to choose what they like?

"What would be the verdict of the civilized world about an Excise administration which prohibited the import of an article which the people liked, in order that by such prohibition Government might force the people to take to another article from which it expected a higher revenue?

"The Chinaman is partial to Indian opium. What would be the verdict of the civilized world if the Chinese Government were to prohibit the import of Indian opium with a view to force the people to take a Chinese produce in order that it might raise a better revenue?

"In this case the grounds for justification on the score of gain in revenue do not exist, for what the Government gains on the supposed efficacy of the agreement with the Garjat States is more than covered by the loss of duty on the Rajshahi *ganja* supplied free of duty to them.

"The Hemp Commission gave their verdict against total prohibition because they considered it a violent measure. That Commission in their Report said: "The object should be to prevent the consumers, as far as may be possible, from doing harm to themselves and to lessen the inducements to the formation of the habit which might lead to such harm. In aiming at this

Digitized by srujanika@gmail.com

object, however, other considerations need to be kept in view. There is in the first place the question of illicit consumption. If the restriction imposed by Government is counterbalanced by a corresponding increase in smuggling, no advantage is gained, but on the contrary a moral wrong is done to the community, apart from the annoyance necessitated by such restriction ".

" The people are anxious that the import of Garjat *bhang* should be legalized and arrangements made for the sale by licensed vendors of the article. Respectable people do not like continuous danger of prosecution which their partiality to an illicit article exposes them to. I am aware that this proposal will meet with a formidable array of objections under the name of practical difficulties in the way of controlling the import of Garjat *ganja*. But no argument ought in these days to be considered sufficient to support a coercive policy of the nature now in existence.

" The Excise Department believe that the present arrangement with the Garjat States has successfully weeded out the *ganja* plant from these States. If this belief is well founded, there ought not to be any difficulty. The Government might continue the existing arrangement with the States, with the exception of one or two States more favourably situated, for the import of *ganja* into British Orissa, and all that need be done is to arrange for the collection and import of the article from these one or two States.

" If, on the other hand, the Excise Department does not believe that the present arrangement has stopped the production of *ganja* in the Garjats, the system having proved a failure should be abandoned.

" In the present state of things the Government has to get a supply of *ganja* from the Eastern Bengal and Assam Government. A similar arrangement will have to be made with one or two of the Tributary States.

" I beg to draw Your Honour's attention to another serious difficulty. When the present Bill is passed into law Government ought under clause 26 [now 27],* sub-clause (b), to impose a duty on the Rajshahi *ganja* now supplied duty free to the Tributary States. That will disturb the existing arrangement.

*The clauses and sub-clauses of the Bill having been re-numbered under the direction of the Council, the present number of each clause and sub-clause is inserted in brackets, wherever the new numbering differs from the old.

Digitized by srujanika@gmail.com

"During the short period of Your Honour's rule, Your Honour has won the confidence of the people by lending a sympathetic ear to their just and legitimate wishes. In the light of this fact I do sincerely hope that the wishes of the people will receive due consideration at Your Honour's hands in exercising the powers under clause 10 [now 9]".

The Hon'ble MR. DAS said (See ibid, p. 200): "The Council will see that, that is a very moderate proposition, and it is one that has been actually introduced into the Bill now before the Council. Nevertheless, it is a fact that the Prime Minister objected to the inclusion of this clause in the Bill, and in doing so he deprecated the implied suggestion that the normal duty of a local authority was to give advice to the responsible officials in respect of such matters. During the debate strong objection was taken to the proposal on the ground that it was undesirable to give any local authority a statutory right to interfere in the discretion of licensing, or to set up the local authority as against the power of the officials. The amendment was finally rejected by a large majority.

"Now I contend, Sir, that if in England any control over the liquor traffic is considered not to be a legitimate function of Municipalities, this alone would be a sufficient reason for accepting the same principle in this country. But in addition to this argument, there are reasons peculiar to this country, which lead to the same conclusion. For instance, when we think, Sir, of the abhorrence to the consumption of liquor which is felt by the better class of Indians who are largely represented upon the Corporation and upon our Municipal Councils, we can appreciate the observations which fell from the Hon'ble Babu Deba Prasad Sarbadhikary, in his speech yesterday, when he said that the strongest argument in favour of local option is that the number of licenses would in that case be largely reduced. In other words, he would put in the hands of gentlemen who hold such views as these, the decision of such matters as the right of a particular person to obtain a license to sell liquor in a particular locality. Well, Sir, I would put it to the Council whether it is likely that gentlemen who hold such views as these are likely to be able to arrive at an impartial decision on matters of this kind. Will they not be very strongly opposed to establishing a new liquor shop anywhere, and will they not be strongly prejudiced against the liquor vendor in a case of that kind?

Digitized by srujanika@gmail.com

" And then, Sir, as a last consideration, I would strongly urge upon the Council that it is undesirable in the interest of the purity of their administration that Municipalities should have anything to do with the liquor traffic. I do not know that I need labour this point for American experience demonstrates the temptations to dishonest dealing to which Municipal bodies which control the liquor traffic are subjected.

" I pass now to the Hon'ble Babu Radha Charan Pal's proposal for the formation of a Licensing Board, and I should like to point out, that the proposal goes far beyond the scope of the jurisdiction of English Municipal institutions, and what is more important, it goes in an opposite direction to what is there considered expedient. It also goes beyond the Corporation's proposals, because the Corporation left the final decision of all matters, subject to appeal, to the Chief Presidency Magistrate in Calcutta or to the District Magistrate of the 24-Parganas; and it goes beyond the proposals of the Calcutta Excise Committee which would have left the selection of the members of the Board in the hands of the Government. This amendment should therefore in my opinion be rejected.

" In conclusion I desire to emphasize the opinion that the delegation to Municipal bodies of authority over the liquor traffic is altogether undesirable, and should not be permitted in this country in any shape or form ".

CLAUSE 83 (NOW 89)

The Hon'ble MR. DAS moved that the words " lessee or assignee ", wherever they occur in sub-clause (3) of clause 83 (now 89) of the Bill, be omitted.

He said: " I would add nothing more to the reasons I have given for moving the amendment on page 13 of the Report attached to the Excise Bill ".

25. The Revised Financial Statement, 1910-11*

The Hon'ble MR. M. S. DAS said: " I have not before me, Your Honour, any Resolution which the Hon'ble Member for the Cal-

*Proceedings, op. cit. 1910, p. 179. Date 14 March 1910.

Digitized by srujanika@gmail.com

cutta University intended to move, and yet the hon'ble gentleman who just now resumed his seat gave me to understand from his speech that there was a Resolution which he intended to support. The Hon'ble Member for the Calcutta University has referred to various subjects touching on educational matters. It is not my purpose, Sir, to make any remarks on those various points, but in his speech he made a reference to certain scholarships which have been awarded by Government, and he made certain remarks with regard to the claims of the different sections of the community who are residents of Orissa. As far as I understand, Sir, those scholarships were given for the benefit of the people of Orissa, and by that I understand, the people who are interested in the welfare of Orissa, and who mean to reside there permanently without reference to caste or colour or creed. But a person to be of service to a province must be a person who, by his past life, has shown that he takes an interest in the welfare of the province; and, that if he receives his education outside Orissa, his life ought to be spent in Orissa and for the benefit of the province. I have always advocated that a proportionate number of those scholarships should go to the domiciled Bengalis or people of other places who have settled down in Orissa, always bearing in mind that the proportion in which these scholarships are awarded to the different communities must be in proportion to the population of the different communities. And if the hon'ble gentleman has been informed from any source that there is objection to the domiciled Bengalis — the term, Sir, I have never been able to understand, and yet that is the term by which a person coming from Bengal and domiciled in Orissa is generally described, domiciled Bengali being a contradiction of terms — I should tell the Hon'ble Member that nobody even objects to the domiciled Bengalis having their proper and legitimate share in these scholarships — a share such as the proportion of their population would justify in comparison with the population of the Uriyas generally. And as regards certain parts of the province being backward in education, I am not prepared to say that the whole burden of the education should lie on the shoulders of the Government. I myself come from that part of the country in Your Honour's rule, where education is as backward and perhaps more so than it is in Bihar. But certainly I do believe that if the people wish to avail themselves of the benefits of education which are within their reach, no Government convinced of an

Digitized by srujanika@gmail.com

earnest desire on the part of the people to raise themselves to the rank of educated people, will hold its hands or fail to stretch forth a hand of ready help ".

The Hon'ble MR. DAS then moved the following Resolution:

" The Council recommend to the Lieutenant-Governor that the necessary arrangements be made for teaching history in the Ravenshaw College, Cuttack."

He said: " Sir, with Your Honour's permission, I should like to inform the Hon'ble Mr. Gourlay that it is not my intention to demand any large sum. Demands for large sums have been previously made, and consequently a further demand may make the Member in charge nervous about this motion. There is a necessity for a lecturer in History in the Ravenshaw College. The cost of maintaining a lecturer for twelve months will, according to the information I have received from the Director of Public Instruction, be from Rs. 1,500 to Rs. 1,800. As regards the necessity for such a lecturer, I should only draw Your Honour's attention to certain remarks which have been made from time to time by the Director of Public Instruction, both the present Director, the Hon'ble Mr. Kuchler, and Mr. James who officiated for a time as Director when Mr. Kuchler was away. At the commencement of this year's session the need for a lecturer in History was brought to the notice of the Director of Public Instruction by two of the successive Principals of the Ravenshaw College. But the then Director stated that a timely application had not been made, while at the same time he admitted both in private conversation and in official correspondence that there was certainly a necessity for such a professor. I remember, Sir, having met Mr. James at a private social gathering when everybody interested in the education of young people in Orissa actually pressed the claim of the Ravenshaw College for a lecturer in History before him. There were non-official gentlemen who were interested in education generally, there were people who were parents of the students, there were the professors and the Principal of the Ravenshaw College, and the Commissioner of the Division. All these agreed that there was a necessity for such a lecturer. But, Sir, we were told that the application had come too late, and Mr. James said that people who did not come in time for the train must wait for the next train, and so I have taken this opportunity of coming before Your

Digitized by srujanika@gmail.com

Honour before the next train is due. But I learn from some source that even now the present Director is inclined to say that there is no room in the train, so you must wait further. My application is one which does not require any disjoining of the budget. I find that there is provision of Rs. 42,000 for the improvement of the instructive staff of the colleges. So the question before the Council and before Your Honour is whether, under the circumstances, Ravenshaw College ought to have a share (not a big share) to the extent of Rs. 1,800 annually. The budget does not show if any final decision has been made as regards how this amount is to be distributed amongst the several colleges; nor does it show as to whether any share of this has been allowed to Ravenshaw College. Consequently the question presents itself before this Council in this form, Sir — whether, taken on its merits, the claims of Ravenshaw College for a lecturer of History are such as ought to commend themselves to the Hon'ble Members of this Council and to Your Honour. During the commencement of the present session there were fifty students who were willing and even anxious to have passed in science. Limited accommodation in the Science Laboratory could provide only for 14 in Chemistry, 14 in Physics and 24 in Botany. Very many of the Intermediate in Arts students wanted to take up either Botany or Chemistry, but they could not be educated because there was no sufficient accommodation as required under the new regulations of the Calcutta University. There was no alternative for these students but to take up Mathematics, and Mathematics is not always a congenial subject for students. Sir, I beg to submit that, under the new Regulations, an option is given to students in the choice of subjects, and certainly Sir, if a college is so equipped with regard to its instructive staff as to compel a student to take up a subject which is not congenial to him, such college under these circumstances does not fulfil the object which the University had in introducing the new system of education. Besides I should mention also that Mr. James in one of his letters wrote that the history teaching of the college was very desirable, and trusted that this may be satisfactorily arranged for next year. He again said in another letter that it was a necessity and he regretted that he was unable to make arrangements for the current session, but pointed out that every effort will be made to appoint a lecturer in 1910. Then, Sir, the financial aspect of the college shows that the earning from fees

Digitized by srujanika@gmail.com

was Rs. 320 more *per mensem* in 1909-10 than in 1908-9. So we have an additional income of Rs. 300, and all that I want, Sir, is that the pay of a lecturer, which is Rs. 125 or Rs. 150, may be met out of this. If the Director of Public Instruction has made up his mind finally as to how this Rs. 42,000 are to be spent, though there is nothing in the Budget to show that any final decision has been arrived at on this point, I appeal to the Hon'ble Mr. Gourlay. He told us that he has given us Rs. 52,000 or Rs. 53,000 for the Civil Courts building; that is bound to remain incomplete during next year; and if he gives us Rs. 1,800 out of that that would be more incomplete by perhaps 1,000 cubic feet of mortar and brick work, and the college will be provided with a professor. As a last resort, Sir, I beg to submit that I undertake to raise the required amount if Your Honour directs the Director of Public Instruction to appoint a lecturer of History. I am sure the hon'ble gentleman who represents the landlords of Orissa will join me in raising this sum, should it come to the necessity and the Government have such a tight grip on its purse"*.

26. Budget 1910-11†

"Your Honour, I should like to associate myself with the terms of felicitations which I have found in some of the printed speeches regarding the work that has been done by the Hon'ble Member in charge of the Finance of this province. Without depriving him of any share of the praise that is justly due to him, I think I may be permitted to associate the names of other Hon'ble Members, both official and non-official, who were in the Finance Committee and helped in framing the budget. While talking of the budget, I should, with Your Honour's permission, draw Your Honour's attention to some inconveniences which non-official Members specially felt on account of the shortness of time and absence of opportunities in taking their due part and share in the discussion of the budget. I can never forget nor can I give adequate expression to my feeling when Your Honour announced in the old Council Chamber the advent of this new re-

*Mr. R. N. Bhanj Deo, the Raja Saheb of Kanika supported Mr. Das on the question of raising funds for appointment of a Lecturer in History in the Ravenshaw College.
Proceedings, ibid, p. 186.
†Ibid, p. 321. Date 2 April 1910.

Digitized by srujanika@gmail.com

formed Council. Those words were that to rule the country for the people was a thing of the past, and the country should be ruled through the people. That inspired in us a hope of the dawn of a day which we all looked for. The budget is the most important work that this Council has to do. It is really an adjustment of the wants and the needs of the different provinces under Your Honour's Government, and of the diverse communities that live under Your Honour's rule. Since I heard those pregnant and memorable words from Your Honour's lips in the old Council Chamber, it has been my sincere and earnest desire to co-operate as much as lies within the humble power of an insignificant Member like myself with the Government with a view to see to the fulfilment of the noble desire so forcibly expressed by Your Honour, and I have no doubt that the same feeling is experienced in a greater degree by the other Hon'ble Members, I mean the non-official Members of this Council, who on account of their better education, wider experience and perhaps better tact are in a position to render more valuable help in the work of the administration. But, Sir, in order that the non-official Members' services may be of any practical help to Your Honour's Government, it is necessary that they should have time and opportunities to make suggestions of a practical nature. I got a letter from the Secretary on the 5th of March asking me to send in my speech on the budget, so that it would reach him at 10 a.m. on the 7th. I got that letter before I received the budget. The budget reached me on the morning of the 6th. According to the present communications between Cuttack and Calcutta it was simply impossible for me to send a speech or to make any suggestions. Of course I could have done so, if I had sent it within two hours of the receipt of the budget. The budget is the result of the deliberations of several official Members of this Council, who are the ablest officers under Your Honour's Government belonging to a service which has been pronounced as the ablest service in the world. And the budget did not contain some of those explanatory remarks which were made on the day the Revised Financial Statement was placed before the Council. Of course it would be a very great compliment to a person to say that he was prepared to make suggestions or to supply omissions, which were the result of an oversight in a budget, such a compliment. Sir, if the explanatory remarks did not actually accompany the budget, there would be resolutions and sugges-

Digitized by srujanika@gmail.com

tions which would be wanting in the nature of being practical or which would not be desirable when read in the light of the explanatory remarks that followed. Some of those explanatory remarks were considered as taken as read. My humble submission before Your Honour is that while we non-official Members are willing to place at the service of the Government all our abilities and such time as we can spare, we pray that we should be given time and opportunities not only to make our suggestions practical, but also to save ourselves from undeserved criticism from the outside world. Impracticable suggestions and resolutions, Sir, are considered as coming from non-official Members who are determined to take an attitude of hostility towards Government. It is highly desirable that this impression should be avoided. My suggestion before Your Honour is that the budget may be introduced at a sitting of the Council with the explanatory remarks such as are necessary to explain the budget, and then the suggestions and resolutions may be taken up afterwards at a subsequent sitting, perhaps after an interval of three or four days or such time as would be available to us under the rules.

"Then the next matter to which I should refer, is the remarks which were made by the Hon'ble Mr. Gourlay with regard to the works done by the Agricultural Department. He gave us a very lucid account of the work that has been done by that department. He told us what has been done in the form of researches, experiments, demonstration farms, and he told us also that it was in contemplation to employ a teaching agency to induce the agricultural population to adopt the improved method of cultivation. But, Sir, here a question naturally suggests itself. Have we taken into account the conservative mood of the agriculturist? Is it not a fact that he is inclined to look with suspicion on all innovation? I know of a young man who is employed in some office under the Agricultural Department and who is full of zeal in pushing the claims and the interest of that department. I suppose it is one of his duties to induce the ordinary cultivator to adopt the improved methods of the department, but I know also that he has not been able to influence his parents to adopt his new methods. The whole family lands are cultivated according to the old methods. In these circumstances I beg to suggest that it would be more advantageous if little experimental farms are established and attached to village schools, and vernacular

Digitized by srujanika@gmail.com

leaflets describing the results of the Agricultural Department's experiments in simple vernacular are placed in the hands of the boys and they are allowed to make the experiments. The parents should be allowed to visit the places to see what the children are doing, and consequently that would be a better means of disseminating the result than we can possibly get employing teaching agencies. I would also suggest, Sir, that some sort of industrial teaching be introduced into these village schools. Of course, there are visible signs of an industrial awakening in this country; it is most remarkable that though agriculture is the most ancient industry, and an established industry, which actually gives livelihood to 80 per cent of the population, in spite of this, I have not seen any proposal to start an association to develop the agricultural industry nor any joint stock company formed to help the cultivator. Of course this is not the place here to discuss why that is so, but the fact remains. The present system of education is calculated to degenerate the young villagers — the artisan's sons — who have the idea that manual labour is something which should be avoided. One would expect that the literate son of a literate artisan, after he had received some elementary education, would apply that education to the improvement of the father's craft; but instead of that, that son always says that it is degrading to engage himself in manual labour. This is the lamentable result of the present system of education, because the present system does not train the hand with the head, and therefore it is necessary to remove this false impression that the hand should be trained with the head. Sir, tradition says that when Kalapahar went to Orissa, at the news of his march the hands of idols dropped off. It seems that as soon as education enters a village, the hands of the artisans drop off. The education — elementary education — has produced that effect, Sir, and with this industrial awakening there is a great demand for skilled labour, and we cannot have skilled labour unless it is fed from a literate labouring class which can only be supplied by these village schools, and skilled labour is as good as the clerk's work at the desk. As soon as the artisan's son receives some education, he despises manual labour and does not like to work with his hands. He thinks that it is not proper for him, after having received some eduation, to use his hands though his father employed his hand in earning his bread".

Digitized by srujanika@gmail.com

27. The Calcutta and Suburban Police (Amendment) Bill, 1910*

" Your Honour, the illustrations that were used by the Hon'ble mover and by the Hon'ble Babu Bhupendra Nath Basu were not exhaustive. They were only particular instances. Of course, I fully accept Sir Charles Allen's view of the position. He thinks that it is the duty of the police to keep order as regards people coming in and going out in a place where a certain number of people congregate, but there is no reason why a meeting that has been got up for charitable purposes should be an exception to the rule; even when people congregate for that purpose, a certain amount of order ought nevertheless to be maintained by the police. But charitable meetings have been excepted, as the clause now stands, by the words ' otherwise than *bona fide* charitable purposes '. These words, Sir, exclude assemblies that have been got up for charitable purposes from the purview of that definition. Now, if a meeting or assembly, which has been gathered for a charitable purpose, is to be excluded from the definition of a ' place of public amusement ' because the object is charitable, *a fortori*, I submit that a meeting that has been got up for a *bona fide* religious purpose ought to be excluded, because religion is in no sense an amusement and certainly should not find a place in the definition of a place of public amusement. I can very well conceive cases where, for instance, Christian people set up a meeting and have singing there in order to set up funds which are to be used for building a church; that would distinctly be a *bona fide* religious purpose. There is no doubt about it. The difficulty we have to face is that such singing ought not to come in the definition of ' place of public amusement '. In devotional church services people sing, but in that case the object is very different. It is not amusement. We stand here in this anomalous position. We exclude charitable purpose, and yet we do not exclude religious purpose. I can fully understand Sir Charles Allen's difficulties that in working the Act the police might be in a very difficult position, because it is sometimes difficult to say which is religious and which is not. There are different sects of religious. What one party calls religious another calls heretic. As the clause stands, religious purpose ought to be excluded because the definition is ' a place of public amusement '. But then

*Ibid, p. 393.

Digitized by srujanika@gmail.com

Sir Charles Allen might say it is difficult to see how dancing can come in as religious.

"These are our difficulties. I submit that something ought to be done to exclude religion, and yet it cannot be consistently made an exception in a definition of 'a place of public amusement', if it is to be excluded, as it ought to be. There ought to be a provision which should exclude both religious and charitable purpose, leaving it to the authorities to decide which is religious and which is not, in doubtful cases."

"Sir, I have neither much experience of Calcutta in these matters, nor have I a fertile imagination to forecast events which may happen fifty years hence. I look at the question from a purely legal point of view. We have here a clause worded in a certain way, and we have here put before us a hypothetical case where a man ignorant of the life in Calcutta enters a place just to satisfy what has been called a rustic curiosity. It is not at all desirable that this man should get into the claws of a penal law. Well, Sir, the question is, does the amendment provide a sufficient remedy in that case? It was argued by the Hon'ble Babu Bhupendra Nath Basu that he (the rustic) had not any criminal intention. If he was brought up under a section which had the word 'trespass' in it, his intention in visiting the place would be looked into, whereas under the present clause that would not be looked into. I do not know, Sir, where it is to be found that intention is to be one of the elements of trespass. I know intention is one of the elements of criminal trespass, and there is no such thing as simple trespass defined in the Code. Criminal trespass is defined in the Penal Code. Trespass, Sir, is a very different thing, and it does not take into consideration at all the element of intention. My learned friend might have heard of the Cattle Trespass Act, but cattle have no intention. Well, then, I submit here that if the case of a rustic is to be taken into account, it would better serve his interest if the language is as little technical as possible. When a simple man is hauled up by the Police, it is much easier for him to give some 'satisfactory excuse'. Excuse has no legal meaning attached to it.

"It would be better if you give the rustic wider latitude. He would be better off under the wording of the Bill than he would be if the amendment were adopted."

Digitized by srujanika@gmail.com

"What I suggest is this. Of course we can take it only as the amendment now stands, 'subject to the approval of the Lieutenant Governor in Council'. The existing rules which regulate the proceedings of the Council now must admit, that is there must be room in them to allow, this amendment to come in. I do not think that there is anything in the rules under which the Council can now do this. Of course the Council has the power to move resolutions. How can the Council now, in the face of the rules as they stand, take up an amendment now in this form 'subject to the approval of the Lieutenant-Governor in Council'? This is not a matter for the Legislative Council, but for the Executive Council, and as there is no Executive Council, the matter cannot be taken up. Nor is there anything in these rules which authorize us to make the amendment so as to authorize an officer to frame rules which should be put before the Council, for the officer might not be a member of this Council."

"My learned friend said something 'more than meets the eye'. The question before the Legislative Council when it is engaged in legislating must be one which refers to the present time and the present state of things. It is not for the Legislature to take upon itself the duties of a prophet, and say that the term of life of a particular legislative enactment should be five years or ten years. The Legislature must take things as they are, and legislate for things as they stand now. These things may change after six months and may not change for another thirty years. When there is an altered state of things it would be for the Legislature then to decide as to whether the particular enactment should continue in force or should be repealed. A good deal has been said with regard to this Bill, but there has been an attempt as it were to fight shy of the real question that ought to be before us. As a matter of fact, we are taking into consideration the recent events that have transpired within the last two or three years. Things are not now what they were when the old Police Act was passed. That is the position in which the Government (i.e., the Legislative Council) finds itself. It has been said that if this Act had been passed as a temporary measure, nobody would have objected to its being passed. But the fact of its being passed does not give it a permanent lease of life. If the state of things alter hereafter, certainly the life of this Act need not be continued after that. Then the question really is this: 'Has there been an altered state of things which does justify the passing of this Act?'"

Digitized by srujanika@gmail.com

"The terms of the amendment are as regards *cries*, etc. I know that people when they carry the dead bodies of their relatives to the cremation or burial-grounds utter cries. The question is whether there have been cries which really require interference on the part of the Legislature, and whether, in this state of things, there is no likelihood of such cries being uttered in future, and if such cries are uttered, whether they ought to be put down. We must consider two measures — preventive and punitive. Preventive measures might sometimes work inconvenience to innocent persons. When there is a chance of an innocent man being punished, I should loudly riase my voice, but we must be prepared to sacrifice something in order to enforce preventive measures for the general good of society. I am therefore unable to support this amendment"*.

The Hon'ble MR. DAS said (on the same Bill):†

"It has been said by my friend the Hon'ble Babu Bhupendra Nath Basu that certain acts of the Indian Viceroys Council were passed for a short period. I should only draw the attention of the Council to the fact that the Commissioner of Police, the nightmare that frightens everybody, has not the power to stop public meetings for more than seven days. If he acts beyond that, he must have the sanction of the Lieutenant-Governor. The Hon'ble Babu Bhupendra Nath Basu and the Hon'ble Babu Deba Prasad Sarbadhikary who have just spoken said that they would certainly support the necessity of putting down meetings, when they tend to bring about an unhealthy state of things. I am sure I am speaking out the feeling of every one, official or non-official, that there have been events which ought not to have found a place in the history of Calcutta.

"The question before us is, what are we to do in the meantime? Of course the police might abuse their authority, the people might also abuse their privilege of having meetings. Now, which is likely to conduce to the good of the people? If two thousand people meet and they cannot make a right use of their privilege — the right of all civilized nations to hold public meetings and give expression to their opinion as is done elsewhere, what is the result? Do they not themselves lose this right? You go to hold a meeting and there you abuse each other or break each

*(The motion was then put and lost.) Ibid, p. 418.
†Ibid, p. 424.

Digitized by srujanika@gmail.com

other's head. What is the result? There is no meeting, no unanimity and no practical good. We ought to learn and adopt methods which will secure the benefits which public meetings have secured in other countries.

" I cannot hope to come up to that mark of eloquence which I was noticing in the speech of my hon'ble friend Babu Bhupendra Nath Basu, but I yield to none among my countrymen in my wish to enjoy the right of public speech, but then let us not hold meetings so as to place ourselves in such a political situation that the right of speech might be taken from us for ever or might produce results injurious to us ".

28. The Bengal Cess (Amendment) Bill, 1910.

CLAUSE 12 (NOW 18)

The following Motion was, by leave of the President, withdrawn.

102. The Hon'ble MR. DAS to move that the following be added at the end of clause 12 (now 18) of the Bill, namely:

To the same section the following shall be added, namely:

" Provided that, when a valuation has been made by the Collector under section 22, the appellant may show in such appeal that the ways and means adopted by the Collector for ascertaining and fixing the valuation were not proper and reasonable ".

The Hon'ble MR. M. S. DAS during Question hour asked:†

XVIII — (a) Is the Government aware of the two cases mentioned below, in connection with the practice existing in the Cuttack Collectorate of realizing a penalty for default in the payment of Government revenue?

(1) A penalty of Rs. 20 was paid in cash on the 16th March 1910, by Chintamoney Mahapater for arrears of Rs. 6-5-6; due in tauzi No. 2417 on account of *kist* November 1909.

(2) On a petition presented on the 24th November 1909, praying the Collector to " be graciously pleased to remit the

*Ibid, p. 446. Date 5 April 1910.
†Ibid, p. 460. Date 30 August 1910.

Digitized by srujanika@gmail.com

interest and accept payment of the revenue" (due on 8th November 1909), the Collector passed the following order:

"There is no reason why I should make an exception in this case. Penalty must be paid, as ordered. Accept payment on or before November 30th of the arrears offered, together with penalty of one anna in a rupee. Order regarding exemption will be passed on January 15th."

(b) Will the Government be pleased to state whether the order of the Collector in case (2) does not contravene the provisions of section 2 of Act XII of 1841 of the Governor General in Council, which enacts that "There shall be no demand of interest or penalty upon any arrear of land-revenue"?

(c) Will the Government be pleased to lay on the table the order, notification or other sanction of the Governor General in Council or of the Government of India in support of this practice?

(d) Will the Government be pleased to state the total amount which has been paid in the district of Cuttack during the twelve months ending June 1910, by defaulting zamindars in consequence of this practice?

(e) In how many districts under the Bengal Government does this practice exist? Will the Government be pleased to name them, and state the amount paid in each district during the period mentioned in the last preceding question?*

29. Resolutions on Matters of General Public Interest†

The Hon'ble MR. M. S. DAS said:

"Your Honour, I fully endorse the remarks made by the Hon'ble Mr. Gourlay that the Government is the sole and best judge as to when the improvement of any particular service as regards its pay and status should be taken up, and I fully endorse the remarks of the Hon'ble Maharajadhiraja Bahadur of Burdwan that perhaps this is not the proper time when we can, with any hope of success, put the Resolution before the Council embodied in words that steps be taken to introduce the improvement in the next budget. So far as the words of that Resolution go,

*Mr. W. R. Gourlay replied to these questions.
†Proceedings, ibid, p. 503. Date 30 August 1910.

Digitized by srujanika@gmail.com

it certainly undertakes more than this Council should do, because, as it is, these matters must be left in the hands of Government. But I wish I could, in the same way, endorse the remarks which fell from the Hon'ble Mr. Gourlay when he said that no Finance Minister or Secretary would accept the principle that revenues should be ear-marked for any particular purpose. Sir, I do not see the prudence or the advantage of comparing these two services — the Executive and Judicial Services. Each service has its special claims and grievances. The grievances of the Executive Officers have been pointed out most graphically and emphatically by the Hon'ble Mr. Saiyid Wasi Ahmad; those of the other service have been described in equally eloquent terms by the Hon'ble Babu Deba Prasad Sarbadhikari. No doubt the Executive Officers do a very important part of the administration, and it is but just that these Executive Officers should have the pay and position such as would place the service not only in an efficient condition, but also in such a position as would secure the confidence of the public. At the same time, we must not lose sight of the fact that the judicial work is done by a class of people for whose services the suitors pay in Court-fees. Just as the Government is interested in the administrative work and has certainly a right to decide as to what should keep that service in an efficient condition, in the case of the Judicial Service, where the suitors contribute to the maintenance of the service, their voice ought to have its force. When a person comes to Court he says: 'I contribute so much for having justice'. Certainly in a matter like this the public have a right to say whether the service is such as is likely to give them that justice which they are entitled to. I do think, Sir, that the public have a right to say that the revenues derived from the Court-fees should be ear-marked and spent in the improvement of the Judicial Service, should that service, at any time, fall below the mark of efficiency. When public confidence is not secured, then certainly, I submit, Sir, the public have a right to press before Your Honour that the claims of that service be taken into consideration. I do not mean to go further than this. As a non-official member of this Council, representing the interests of the public, I have the right to put the voice of the public before Your Honour, and, ask Your Honour, to modify the proposition in the general terms, which the Hon'ble Mr. Gourlay lays down as regards the power of the Finance Member.

Digitized by srujanika@gmail.com

"As regards the Subordinate Executive Service, the Hon'ble Mr. Saiyid Wasi Ahmad has sought to compare the two services and has taken into calculation the income of the Munsif while practising as a pleader. All these things, Sir, are, in my humble opinion, matters which cannot further the discussion of the subject. As I stated in the earlier part of my speech, the matter ought to be left in the hands of Government. Carrying this argument to its logical sequence, one might say that the man who earns much while a pleader should work as a Munsif without pay. But, Sir, we should all bear in mind one fact and that is while a person who enters the Executive Service gets a training (he is first of all trained in departmental work), a Munsif from the first day of his appointment does the full amount of work. I therefore respectfully submit to Your Honour that it is but just that these facts should be taken into consideration when the question is next taken up."

30. The Estates Partition (Amendment) Bill, 1911*

The Hon'ble MR. M. S. DAS said:

"Your Honour, The Hon'ble Mr. McPherson, in introducing the Bill, has referred, in his remarks, to the troubles which the parties are subjected to in Tirhut, Bihar, and even in the districts of Bengal as Jessore. I should only ask him to bear in mind that there is another part of the country under Your Honour's rule, that is, Orissa, where I knew a certain case was pending for partition for over 20 years. Cases of dilatoriness of proceedings are very numerous. The fact is that in Bihar and in Orissa inheritance is governed by the *mitakhara* law, and in these days, when individual rights and individualism are being developed, the motives for partition of family estates are increasing. Consequently, there are frequent instances of application for partition. Nothing would be more welcome to persons interested in the revenue paying estates than a simplification of the procedure for partition. But the Hon'ble Member in introducing the Bill, disappointed me a bit when he said that these difficulties are not to be dealt with in the present instance. I should only request that if it be possible within the scope of the Bill — when this Bill is in the hands of the Select Committee for consideration — an attempt should be made to simplify it in such a way

*Proceedings of the Council of the Lieutenant-Governor of Bengal, 1911, p. 29.

Digitized by srujanika@gmail.com

as to reduce the dilatoriness of proceedings. This would certainly be a great boon to many people. I hope, when considering the Bill, the difficulties which arise in Orissa, on account of the peculiar legal incidents of the tenures, and the law of inheritance will also be taken into consideration. I thought it proper to mention it to the Hon'ble Mr. McPherson, for evidently his attention has not been drawn to the difficulties in Orissa."

31. Matters of General Public Interest (Under Rule 23)*

" Your Honour, It was not at all my intention to speak on this resolution, but after having heard the Hon'ble Mr. Bompas, I feel it my duty to say a few words. He has very clearly put in a very lucid speech the history of the system which now exists in the Sonthal Parganas, and no doubt anybody who studies that system would come to the conclusion that the system is one which found justification in the past history of the tract. The Hon'ble Mr. Bompas has also put before the Council two sides of the question — one is the Pleader's point of view of the question, and the other is the Administration point of view. Certainly no person — not I, at any rate — should advocate any proposal under which a number of pleaders or lawyers should be let loose on the illiterate and ignorant people of the Sonthal Parganas to fleece them. But at the same time, the resolution does not aim at letting loose the pleaders on the ignorant people, but the resolution is worded so as to leave us in no doubt as to the intention of the hon'ble mover. The resolution proposes that when an accused person *wishes* to be defended, he should be given an opportunity to secure the services of lawyers. The last two years' Budgets in this Council have shown that the services of lawyers are very valuable even in the Metropolis of the British Empire. I have read of a case where the Magistrate trying a case in the Sonthal Parganas came to a very curious legal conclusion. A person against whom a case proceeding died, and his son was arraigned for his father's offences. The Magistrate held that if the son inherited his father's property, why should he not also be punished for an offence committed by the father ? That was probably a very sensible view to the trying Magistrate. It is not

*Ibid, pp. 258-59. Date 1 April 1911.

Digitized by srujanika@gmail.com

difficult for us to conceive that some Deputy Magistrate would adopt such an interpretation of the law. I submit that the greatest benefit we enjoy under British rule is Justice, and the foundation of the British Empire rests on our appreciation of British Courts of Justice. In certain cases where justice is miscarried owing to the ignorance of the persons entrusted with the administration of justice, it is a discredit to the Administration. The question before the Council is that accused persons in the Sonthal Parganas should be given an opportunity of defending themselves by pleaders if they so wish, not to allow pleaders to fleece the ignorant people. Having that in view, I submit that the resolution ought to be accepted by the Council".

The Hon'ble MR. M. S. DAS said:*

"Your Honour, there have been actual cases within my personal experience in this Council and in Select Committees, that when a Bill originally came before the Council, perhaps certain amendments were not considered necessary, but when the Bill was circulated, certain amendments were thought necessary, and again, when the Bill had undergone certain modifications, some more amendments were thought necessary. It is not possible for a Member to foresee these amendments. For cases like these, I think, Your Honour, there should be an exception. When an amendment becomes necessary, in consequence of certain amendments having been made in the original Bill, such a case would be exception. The original Bill might have been consistent, but when one part has been amended, a subsequent amendment might be necessary, and such amendment may be considered necessary even by the Hon'ble Member in charge of the Bill. There have been cases like this in the Estates Partition Act when it was in Council last. I think there ought to be certain provisions for cases like these. I do not say what shape such provision should take — but there ought to be provisions, or else certain obvious amendments would be shut out".

32. The Calcutta Improvement Bill, 1911†

The Hon'ble MR. M. S. DAS said:

"Your Honour, I have not made a study of the interests of the different classes of the population who are either likely to

*Ibid, p. 333.
†Ibid, pp. 365-66. Date 15 August 1911.

Digitized by srujanika@gmail.com

benefit or to be affected prejudically by the Bill before the Council, and I did not, I confess, make a special study of the Bill. One thing I notice, that there is a provision in the Bill that people who come to Calcutta and go from Calcutta are to be subjected to a certain taxation. That provision affects us — outsiders. Sir, we all admit that the discussion that has taken place today makes it clear that sanitary improvements in Calcutta are necessary. We are all agreed there; so there is no good likely to come from crimination or recrimination as to whether the Government or the Corporation or the people are responsible for the present insanitary condition which does exist, or, if they are all liable to blame, in what share the blame should be apportioned to each. The fact is that a common danger exists, and official and non-official, rich or poor, agree that this present condition should be removed. There was at first, in the early part of the discussion, some cloud hanging over it. It was not clear what was aimed at, but the storm of discussion which has just preceded, has cleared up that cloud, and the question at issue is, whether the landholders should have any representation or not. The Hon'ble Mr. Bompas has used an illustration saying that the accused has a very great interest in the trial, but he is not allowed to give his opinion or decide the case. On the contrary, the Hon'ble Babu Bhupendra Nath Basu has said that he does not claim a preponderance in the constitution of the Trust of the landlord class; what he claims is that their representative should have a seat there. They should have a representative who will be able to bring before the Trustees how the working of the Trust affects the interests of that class. He takes actually what the Hon'ble Mr. Bompas would describe as the position of the accused. The accused has not the right to decide his case, but his mouth is not gagged. Is it not his right to have somebody who can speak on his behalf? He has not only that right, but he has the right to put his version of the case in the Court and to get the services of the best possible lawyers available to speak on his behalf. It must be admitted that there will be men in the Trust who are foreigners, and I think there should be men of the country who would be in a position to bring before the Trust the actual feelings of the people; and I suppose no wise Government, in embarking on a measure like this which affects the interests of the people who are to be deprived of their ancestral homes and seats, should ignore popular feelings. The Hon'ble Mover of this amendment

Digitized by srujanika@gmail.com

says that the British Indian Association is not an association composed entirely of landlords, but I was all along under the impression that it is composed of big and small landlords residing throughout Bengal, and most of them are very wealthy and big zamindars. I am anxious to see that a popular grievance of that nature should be removed, and I do not think that the presence of one man is likely to upset the decisions or the arrangements of the Trust. The Hon'ble Member does not give any definite information as to whether a landholder is likely to be returned from the British Indian Association. In case this is guaranteed, that the Hon'ble Mover is sure that the landholders whose interests are chiefly affected, will be represented by an election by the British Indian Association — if this be the undertaking, I would certainly support the amendment."

33. The Orissa Tenancy Bill, 1911*

The Hon'ble MR. DAS moved that the Bill to amend and consolidate certain enactments relating to the Law of Landlord and Tenant in the districts of Cuttack, Puri and Balasore in the Orissa Division, and the Report of the Select Committee† thereon, be not considered in this Council.

He said (on 6 March 1912):

" Your Honour, I beg to be permitted to say a word in regard to the remarks which have fallen from Your Honour just now. I did not know that it was against the practice of this Council to make any remarks on the constitution of the Select Committee, or that the proceedings of these Committees were of a confidential nature. As far as I remember, though it is not possible for me to quote chapter and verse, there have been, as Your Honour remarked, instances where the constitution of the Select Committee was discussed in Council when the Bill and its provisions were being discussed. I do not like to say anything more on the subject beyond that I should be the last person to disregard a practice of an august body like this Council, if there was anything

*Proceedings of the Council of the Lieutenant-Governor of Bengal, 1912. p. 38.

†The Select Committee consisted of J. H. Kerr, F. A. Slacke, E. P. Chapman, S. L. Maddox, J. G. Cumming, Sir Bijoy Chand Mahtab, Madhu Sudan Das, R. N. Bhanj Deo, M. S. Zahiruddin, Janaki Nath Bose, Hrisikesh Lala and H. McPherson.

Digitized by srujanika@gmail.com

to make me believe or bring to my knowledge that such was the established practice. I cannot lay my hand now, but I have been very long in this Council, and I remember instances where notes of dissent had appeared in the public papers before they were brought into the Council, but I am sorry if I have violated this practice, and I beg to be excused for it, but it was not done with any intention to go against an established practice.

"The Hon'ble Member in charge of the Bill in introducing the Select Committee's Report said that it was not possible to avoid differences of opinion in a law which defines the relations between landlord and tenant. Land law includes in it the interest of every one who owns interest in land or lives on it. So consequently there must be points of contact and points of difference. I do not intend now to discuss in detail the provision of the law or rather the provisions of the Bill as to how far they secure or injure the interests of those who have interest in the land. I take for granted that Government intends to do a certain thing, but we know that Government has not at its command the time which is necessary for patient and careful deliberations and discussion on difficult points of law involved in a case like this. Therefore all that I intend to do on the present occasion is simply to show that the Bill in a most remarkable manner, and in the most important cases, fails to accomplish the object for which it is intended.

"The Bengal Tenancy Act was passed in 1885. It did not *proprio vigore* apply to Orissa, but power was given to the Lieutenant-Governor of Bengal to extend the whole or a portion of the Act to Orissa. The Act was framed to meet the condition of Bengal and Bihar at the time.

"If I were to attempt to show why the Bengal Tenancy Act could not apply, I should be trying the Council's patience. I shall therefore content myself drawing the attention of Hon'ble Members to the statement of the Hon'ble Mr. McPherson made in his speech when referring the Bill to a Select Committee:

'Surprise may be felt that it should not be possible to find salvation for Orissa in a Tenancy Act which was devised after years of deliberation and has proved sufficient for the great congeries of varying races included within the boundaries of Bengal. The reason is that, although power was taken in the Bengal

Digitized by srujanika@gmail.com

Tenancy Act to extend its provisions to Orissa, the needs of Bihar and of Lower Bengal were alone considered in framing that enactment. *The peculiar conditions of Orissa were not taken into account'.*

'In the fiscal and agrarian history of Bengal, Orissa occupies a unique place, *having features essentially different from those which distinguish the rest of the province'.*

"Here I have the good luck to agree with the Hon'ble Mr. McPherson. Hon'ble Members will please mark the words 'features essentially different'. I should add that Orissa is mostly temporarily settled. Bengal and Bihar enjoy the boon of permanent settlement.

"In 1891 portions of the Act were extended to Orissa for making the Revenue Settlement of Orissa. The Acts and Regulations under which the previous Revenue Settlement had been made were considered unsuited.

"Chapter X of the Bengal Tenancy Act was first introduced for the purpose of revenue settlement. The main object the Government of India had in view in directing that the revenue settlement should be made under Chapter X of the Act was to secure an enhanced revenue; the other object was a classification of the tenancies according to the provisions of the Bengal Tenancy Act. The reason for this was that the classification was superior to that embodied in Act X of 1859 and if the record-of-rights were made during the revenue settlement on the basis of the laws in force in Orissa, the subsequent introduction of the Bengal Tenancy Act would be impossible. What was the result of this? The settlement operations began. If the Assistant Settlement Officer happened to be a Bengalee, who was familiar with the rights and interests which the Bengal Tenancy Act deals with, he found on the spot new rights which found no place in the Act. If the Assistant Settlement Officer happened to be an Uriya to whom the local rights in lands were familiar, he received no light from the Act. The Settlement Officer himself was no wiser. He moved the Government to extend some other portion of the Act, as occasions presented difficulties in the working of Chapter X of the Act. All groped in darkness. The Supreme Government supremely ignorant of the local conditions were the legally constituted guide. It was a case of blind leading those struggling in

Digitized by srujanika@gmail.com

darkness. Sections after sections of the Bengal Tenancy Act were introduced as difficulties arose during the progress of the settlement operations. Experience of the degree of darkness which surrounded the responsible duties of the Settlement Officer led him to try new openings for additional light, but the additional light showed some more dark spot. Portions of the Act were extended from time to time to remove difficulties, but every new extension started unforeseen difficulties in another quarter. This process was carried on till the Government came to the conclusion that Orissa wanted a special Code adapted to its peculiar circumstances.

" The Settlement Officer did his work heroically just as the village barber performs all surgical operations with his rude nailcutter.

" A child went with his parent to Bombay *en route* to England. He had heard that his journey to *Bilat* would be over the sea. When he saw the sea at Bombay, he said to his father, Papa *dekho bura Bilatee panee.* He had learnt the expression *Bilatee panee* in Calcutta, as that is the word used of aerated water. The child thought he saw a sea of aerated waters. This is what the Settlement Officers did.

' It is not necessary for my present purpose to give an exhaustive list of all instances of erroneous classification of rights in land. I shall just mention two instances.

" In the Bill, Hon'ble Members will find the word *bajiaftidar* define in subclause (2) of clause 3 of the Bill. A *bajiaftidar* is a person whose claim to hold land revenue free was adjudicated under the old Regulation. Revenue was assessed on the lands in his possession. He did not pay rent to the zamindar, but he paid the Government revenue through the zamindar. So he was a proprietor, not a tenant. The Hon'ble Mr. Maddox in his letter No. A., dated the 6th April 1909, in paper No. 2 regulating to this Bill says:

> ' The *bajiaftidars* complain that they are by origin proprietors and not tenants. Historically this is true . . . The *bajiaftidars* are not therefore *by origin* at any rate tenants within the meaning of section 3 (3) of the Bengal Tenancy Act, because the person under whom they now hold does not own the *bajiafti* land '.

" But what status was given to this class in the settlement of 1899-1900 ?

Digitized by srujanika@gmail.com

"My object, Your Honour, is just to show that the Bill as it stands raises questions which defeat the very object which the Hon'ble Member says the Bill has to secure. If Your Honour will allow me a little more time, I will show that there is not time at the command of this Council to discuss this technical point of law which has been raised, and I shall show conclusively that if the Government wishes to make any concessions by passing the Bill as it stands, they will just do the reverse of what they intend to do, therefore my contention is that this Bill — there being no time at the command of this Council — should not be further considered in this Council."

The Hon'ble MR. DAS said:

"It will thus be seen that the proprietor and tenure-holder were unlawfully deprived of their *nij-jote* lands. The Hon'ble Mr. McPherson calls this a generous concession to the landowners of Orissa. All that is proposed to be done is to change the word *nij-chas* to *nij-jote*.

"I have given two instances, and with Your Honour's permission I would like to show how large classes of people have been divested of their lawful rights by the erroneous procedure of the Settlement Departments, how what was meant to be record-of-rights has become in many cases record-of-wrongs.

"I appreciate the generous desire to arrive at *status quo ante*. This naturally leads to the question, does the Bill provide the proper remedy?

"Those responsible for the drafting of this Bill had most difficult work before them. My criticism of their work is not without an appreciation of their difficulties.

"I do not think in the whole history of this Council there has been a Bill so complicated in nature. The Bill tries to rectify mistakes done under a wrong Act. Where the original Act did not apply, it was an illegality; where it was applied by mistake, it was an irregularity. In some cases the errors arose from other causes. Sweeping denunciation of the whole work is not desirable or practicable. The work before us is to preserve the general result of the settlement, to make amends where injustice has been done, and to frame a self-contained Code for future guidance with the aid of experience in the past.

Digitized by srujanika@gmail.com

" Clause 163A of the Bill as altered by the Select Committee runs thus:

'163A. (1) In temporarily-settled estates for which a record-of-rights has been prepared and finally published under Chapter X of the Bengal Tenancy Act, 1885, between the years 1891 and 1900 inclusive, and again between the years 1906 and 1912 inclusive, a proprietor's private land shall include:

(a) land which has been recorded as *nij-jote* in the record-of-rights prepared between the years 1906 and 1912, and

(b) land recorded as the *nij-chas* of a proprietor or sub-proprietor [other than a sub-proprietor referred to in sub-clause (i) of clause (22) of section 3] in the record-of-rights prepared between the years 1891 and 1900, which has again been recorded as his *nij-chas* in the record-of-rights prepared between the years 1906 and 1912.

(2) No land in a temporarily-settled estates which is not covered by sub-section (1) shall be held to be a proprietor's private land '.

" With regard to these *nij-chas* lands the Hon'ble Mr. McPherson in his speech said, the chief value of the change in fact will be that it will remove a fertile cause of dispute and strife about the lands. So there is dispute which means that right of occupancy is claimed in these lands.

" Suppose this Act were passed today; it cannot retrospectively affect the right of occupancy acquired during the period of 21 years — the interval between 1891 and 1912. The revenue settlement show the lands as other than proprietor's private land. They are cultivated through raiyats. How can clause 163A extinguish the occupancy right acquired before the date when this Bill is passed into law ?

' Every statute, it had been said, which takes away or impairs vested rights acquired under existing laws, or creates a new obligation, or imposes a new duty, or attaches a new disability in respect of transactions or considerations already passed, must be presumed, out of respect to the Legislature to

Digitized by srujanika@gmail.com

be intended not to have a retrospective operation' — *vide Maxwell on the Interpretation of Statutes, 4th edition, page* 323.

'No rule of construction is more firmly established than this — that a retrospective operation is not to be given to a statute so as to impair an existing right or obligation, otherwise than as regards matter of procedure' — *vide Hardcastle on Statutory Law, 3rd edition, page* 353; see also *Full Bench Decision, Jogadanuna Singh* versus *Amirta Lal Sircar, dated* 1895, *and Reid* versus *Reid, Volume VI, Ruling Cases.*

"One of the principal objects of this Bill is to restore to certain people whose interests have been affected by the Settlement Department.

"If Your Honour wishes the people to understand that Government has most honorably come forward to restore to them what they had lost by the mistake of their officers, let us not proceed any further with this Bill. The people of Orissa will ever remain grateful to Your Honour for the intention which has now been put on record. How to give effect to that intention requires further deliberation, and a little more help of that contemptible class called lawyers than the Bill seems to have received. There is no time for that in this Council. Orissa will be more thankful to your Government for the intention than for the Bill enacted into law. The Government of the new Province will exactly understand the situation, and having more time at its command will give effect to the intention. If, on the other hand, it is the latent wish of Government to deprive permanently these men of their rights and give legislative sanction to what was done through ignorance and mistake, pass the Bill as it stands. I cannot believe that it is the intention of Government to give the zamindars and *bajiaftidars* some concession which the law courts will subsequently pronounce as delusive. It is admitted that the interests of these classes have suffered. It is proposed to compensate them for the injury they have suffered. Let not the compensation be dubious in the least. Let it not be given in a form which will drive these men to litigation. Let it not be given in a form which will leave the ultimate decision to law courts. If the decision of courts be adverse, Orissa will lose all faith in the British Government, and Your Honour's name will be associated with the breach of faith by the British Government with a people whose ancestors invited the British to occupy the Province".

Digitized by srujanika@gmail.com

" The other matter to which I beg to refer is that there in the Bill a most contentious matter, that is the maintenance of land records, and that is a thing which is opposed by everybody. In fact the District Judge opposes it. We wanted to have before the Select Committee a letter which had been written by the Divisional Commissioners on the subject, but we had not the advantage of seeing that letter. This work has been carried on for some time in Orissa. I do not understand why Orissa should have been selected as the field of experiment.

" The Hon'ble Mr. McPherson hopes that this Bill should form the parting gift from Bengal. Bengal cannot give what she had not; there are many provisions in the Bill which Bengal has not been burdened with. The provision about communal land, the transfer of right of occupancy, the provisions about reclaimed waste land and the maintenance of land records, these the most contentious portions of the Bill do not exist in Bengal. It is not correct to say that it would be a parting gift from Bengal. Bengal cannot give what it has not. It might be a parting gift from the old Bengal Government.

" The people have always enjoyed the reputation of being peaceful and peace-loving. Orissa is called the holy land of India. Though situated within a few hours journey from Bengal, there was no sedition in Orissa. There never has been any agrarian disturbance like those in other parts of the country under this Government. No commission was ever appointed to inquire into the strained relation between zamindars and raiyats. There is one Sessions and District Judge in the whole Province, and only one Sub-Judge. What have we done that before handing us over to the new Government it is the intention of this Government to give us the worst character. In the *Mahabharat* there is a transfiguration of Krishna. He appeared once transfigured. It was a monstrous figure, standing on three legs and holding the Sudarsan Chakra, the emblem of Almighty destructive power in the right hand. Of the three legs, one was of a tiger, the second of a horse and the third of an elephant. The tail was the expanded hood of a cobra. A lion's body and peacocks neck completed the figure.

" It was the combination of all destructive powers available in creation with an attractive front as the peacock's neck has. That is the character of this Bill. Of the destructive power of the

Digitized by srujanika@gmail.com

Bengal Government, Orissa need not be reminded. The famine of 1866 and the floods which followed it carrying away more than a million people need not be supplemented by additional proofs of the power of Government. Why then this combination of all that is oppressive in Bombay, Madras, Chota Nagpur, Bengal and East Bengal. The Bill combines all these. Is Orissa a land where the worst characters of all parts of India find refuge.

"If this Bill is passed Your Honour will hand us over to the new Government as the worst portion of the people under Your Honour's Government. I believe this Government has done enough injustice to Orissa. How we shall fare under the new Government is yet unknown, but we believe that His Majesty's wishes and object in placing us under the new Government is to secure to Orissa a greater share of Government attention. But when making over Orissa, Your Honour makes over also an Act more stringent in its provision than are to be found in any other part of the country under your Government; the natural inference of the new Government will be that Orissa contained most turbulent people in the new Province.

"I beg to draw the attention of the Hon'ble Member in charge of the Bill and Your Honour to the principle which was enunciated by the Hon'ble Mr. Greer at the last meeting of this Council, that it would not be proper for this Council to discuss the Budget because there are members here who will shortly have nothing to do with Bihar and Orissa, and they have no right to discuss the income and expenditure of these places. On the contrary if Bengal has no right to discuss their income and expenditure, so also they have no right to legislate about the destinies of millions of people just before handing them over to the new Province. With these remarks, Sir, I beg to move that the further consideration of the Bill be postponed."

The Hon'ble MR. DAS said:*

"Your Honour, the speeches that have been made by those gentlemen who have opposed my motion, had been apparently made on a supposition that I was opposed to have an agragian code, a self-contained law, containing all that is necessary to govern the relations between the different classes having interest in land. I am not at all opposed to it. All that I say is that the

*Ibid, p. 51.

Digitized by srujanika@gmail.com

interests are of such a nature, and owing to there being these anomalies as regards the application of the different Acts in the province, there have been so many difficult questions to be solved, that it is not possible for this Council, unless this Council's lease of life has been extended by anything which is not known to the public, to do justice to this question. The Hon'ble Mr. Maddox has said that he has brought to the notice of the public certain irregularities which were made. No doubt he has done that. I certainly admire the Hon'ble Member's straightforwardness in doing that, and not only that but also his solicitude that some compensation should be made to those whose interests have been affected by the mistakes of the Settlement Department is worthy of anybody's admiration; but then, Sir, the man who makes a mistake is no doubt the person who can tell us as to where the mistake has been made, and no doubt his suggestions as regards how the mistake can be remedied are valuable, but the question, when he becomes the sole arbiter of the situation assumes a dubious form. I really admire the Hon'ble Mr. Maddox coming forward boldly and saying that these people should be compensated, just as I would admire the courage of a doctor, who had been operating by mistake in such a way as to injure a vital part, to say that he had made a mistake, but while certainly I would follow his advice: I would say, 'I will not allow you to be the arbiter of the situation; it is much better that your work should be judged by others'. A good deal has been said that the volume of work, which has been gained by the application and labour of men who have known Orissa so well, should not be thrown away. I am sure none of it will be thrown away. They have all been put on record, and consequently they will pass on to the next Government. That is altogether an erroneous argument.

"Another objection is that this Council has Hon'ble Members who are so well acquainted with Orissa, and the next Council might not have men who are likely to possess the same knowledge about the affairs of Orissa. That may be so, but the administration of Orissa is about to be made over to a new Government. It is not known what policy that Government would adopt with regard to the administration of Orissa. Are we not sitting here actually to decide what policy that Government should adopt when we undertake to legislate a measure which affects the interests of millions of people — a most important measure regarding an agrarian population of millions. How should we know that

Digitized by srujanika@gmail.com

that Government would actually like the idea of importing legislative enactments which are not to be found anywhere in the neighbourhood, but are to be found in Madras, Bombay and in the theories of those gentlemen who have been drafting this Bill.

"Then the Hon'ble Member in charge of the Bill has spoken for the raiyats. I can very well understand that. When a raiyat has been making his *salam* to a Settlement Officer in the mufassal, and when the raiyat found that the Settlement Officer deprived another of his rights, and made it over to him, he would naturally show confidence in the Settlement Officer. Of course, if the Settlement Officers admit that they have done irregularities, it is no wonder that they would please some people. The Hon'ble Member in charge has claimed to be the raiyat's friend. This claim is put forward by an official. But I suppose the poor raiyat knows the real sympathy of the official when he remembers the official treatment he gets in times of famine and floods.

"Then, Sir, it has been said that the Government of Bengal has treated Orissa like a pet child, and therefore we expect the best things from this Government. I do not know whether this is the theory which the Government of Bengal entertains. That theory has not been entertained by His Gracious Majesty. If His Gracious Majesty thought that the Bengal Government had treated Orissa as a pet child, certainly this administrative change would not have been brought about. Let me state to Your Honour that when the Bengal Tenancy Act was passed, though it was contemplated that this would be introduced into Orissa at some future date, no man from Orissa was allowed a seat in this Council.

"I may also remind the Council that all Acts that have been passed in this Council with regard to Orissa have been passed without anybody representing Orissa on this Council.

"The Bengal Tenancy Act was amended on two or three occasions for the purpose of carrying out the revenue settlement in Orissa; there was no seat allowed to a member from Orissa. I know for certain that even on the occasion no body was appointed to this Council by nomination. The only instance when there has been a nomination to this Council is the present one, when Government thought it fit to bring in by nomination the public prosecutor of the land, to prosecute a people give them a bad

Digitized by srujanika@gmail.com

name and a bad law, just before handing them over to the new Government with a bad character.

" I do not know exactly what time this Council has at its command for passing this Bill. Certainly, I should have been the last person to object to this Bill being considered in this Council, if I knew that the time at its command was sufficient for the purpose. Of course, Your Honour knows best. If I were allowed to discuss the principles of this Bill, I could point out to Your Honour that there were mistakes even in the definition. If all that is to be gone through, either the Council must be rushed or attention cannot be paid to what are called 'legal objections' raised by the contemptible class called lawyers. If we do not pay attention to the suggestions of that contemptible class, the result will be whatever may be the intentions of Government, the law courts will not look to the intention of the Government, and the Government might find that after all its intentions have not been given effect to — then there will be necessity of legislating again; and that is the danger ahead of us. I do not think that I should take up Your Honour's time any more, but I submit respectfully that if the people of Orissa understood what is good for them, if the people knew what their rights were, then certainly these mistakes which were done by the Settlement Department — unsettlements made by settlement — should not have been allowed. The question is, do the intelligent people — do the people who understand the provisions of the enactments, do the people who appreciate the Hon'ble Mr. McPherson's generous concessions — do these people bearing in mind the concessions which Government intends to make — do these people think, after they have read the Bill and the form in which it is proposed to be passed, that this law should be the best suited for their purposes? I should like to know what lawyers have been consulted on this point. Certainly in a legislation of this kind lawyers must have a voice. I was going to discuss certain things and to point out that these provisions will never do, but of course Your Honour ruled that I was going beside the point. It was not therefore possible for me to show how the irregularities and the mistakes which are to be found in the Bill have been remedied.

" The Hon'ble Babu Mahendra Nath Ray said that he found that there were anomalies, and he said that he had special acquaintance with the Tenancy Act. Of course I do not know the

Digitized by srujanika@gmail.com

nature and the extent of his experience, but I found that he was arguing certain points which were perhaps new to him, as the Hon'ble Maharajadhiraja Bahadur of Burdwan said certain words in the Bill would be strange to the Bihar gentlemen in the new Council. They may be so. The whole administration of Orissa will be strange to the new Council. But this is not for us to decide. I believe that at least we will have this advantage, that the new Government will look at it from an outsider's point of view and judge the work of the Settlement Officer as an outsider would do, and not be influenced by such opinions as have been put forward by people who are responsible no doubt for the mischief done, and who now say that the mischief is to be corrected in this way.

AMENDMENT NO. 1*: CLAUSE 3

The Hon'ble MR. M. S. DAS moves† that the following be substituted for clause 3 (2), namely:

"*Bajiafti* lands mean lands, the title to hold which on special terms of revenue assessment having been declared invalid by the Cuttack Land Regulation of 1805, the Bengal Land-Revenue Assessment (Resumed land) Regulation, 1819, or the Bengal Revenue Free Lands Regulation, 1825; the said lands were assessed in the course of a settlement of land-revenue at a *jama* fixed for the term of that settlement.

"*Bajiaftidar* means a holder of *bajiafti* land, who was recorded in the record-of-rights published under Chapter X of Act VIII of 1885 between the years 1891 and 1900, or between the year 1906 and the commencement of this Act, as a *bajiafti* tenure-holder or *bajiafti* raiyat according as he cultivated the lands through tenants or cultivated them himself".

He said:

"Sir, before I proceed to refer to the amendment, I shall, with Your Honour's permission, just speak two or three sentences with regard to the remarks which fell from the Hon'ble Member in charge of the Bill. He complains that the Bihar members are

*Ibid, p. 65. Amendments moved on 20 March 1912.
†i.e., Act VIII of 1885.

Digitized by srujanika@gmail.com

taking a lively interest in the provisions of the Bill; for the duty of fighting or being slain by the Hon'ble Member in charge of the Bill should devolve on two members 'who can take care of themselves'. I cannot say that both of them are old enough to take care of themselves. With regard to my present amendment, Sir, we are not fighting for anything which Government does not like to give or the people like to have. We are agreed as to what should be given. The only point of difference between us is how it should be given, and the form in which it should be given. I contend that the form in which the remedy to *bajiaftidars* is proposed to be given in the Bill will not pass the right actually. It will remain a dubious point to be decided afterwards by the Courts, and Courts, Sir, are after all Courts of Law, and nobody can possibly predict what the decision of a Court will be on a particular point of law. Therefore my contention in this Council is that the form in which it is proposed to relieve these men should be such as would remove all doubt. Now, it is admitted that the *bajiaftidars* were people who held land revenue free; they claimed to hold it revenue free at the first settlement of Orissa, when their title to hold revenue free was questioned and adjudged, and afterwards it was found that they were not entitled to hold it revenue free or on a particular percentage of revenue, and then they were assessed. Now, this should be borne in mind, Sir, that what was assessed on them was the revenue, i.e. there was a contract between the Government and these people, and they had a proprietary right in the land. I should not have fought for these people if they numbered only a few hundreds. These people hold lands which is equal to one-sixth of the total cultivated area and they pay 7 or 8 lakhs of revenue. They form an important class. Well, what was done during the last revenue settlement was that their status was altered under the Bengal Tenancy Act. The Bengal Tenancy Act, Sir, has always been responsible for the Bengal Tendency of all your more recent agrarian legislation in Orissa. The result is that these *bajiaftidars* have been made to fit in with the definitions in the Bengal Tenancy Act.* It is something like putting a round man into a square hole. I do not know whether anybody has actually tried the experiment.

"Now, the course which was adopted made the consequences disastrous to these people. Their rights suffered and Government

*i.e., Act VIII of 1885.

Digitized by srujanika@gmail.com

saw it, and this is very graphically described in Mr. Maddox's letter; and I reiterate the sentiment to which I gave expression the other day that I do admire and appreciate, not for myself but on behalf of these thousands of people. Mr. Maddox's statement that some mistakes have been made in dealing with agrarian matters in Orissa in the past, that some rights may have been prejudiced, and that he is anxious to do justice to the people of Orissa. There is no difference between us there. I say I admire this spirit in Mr. Maddox, and I hope that he may live long to associate this consciousness of human infirmity with a keen sense of justice in still higher offices than the one that he now fills. But then the question is, what is being done now? The *bajiaftidar* is made in some cases a raiyat and in some cases a 'tenant' and this fact is recorded under the Bengal Tenancy Act.* Mr. Maddox, in his letter dated the 6th April 1909 says:

'The *bajiaftidars* complain that they are by origin proprietors and not tenants. Historically this is true. In the settlement of 1837, and again in the settlement of 1890 and 1900, although Government fixed their rents for the terms of each settlement they were ordered to pay for their lands (where the area was less than 75 acres), through the proprietor or proprietary or sub-proprietary tenure-holder, to Government, and these payments have been so made without objection for the last 70 years. It must, however, be remembered that, originally, under clause 22, Regulation XII† of 1805, *the revenue, not the rent* assessable on these tenures, was declared to belong to Government. The *bajiaftidars* are not, therefore, by *origin* at any rate, tenants within the meaning of section 3 (3) of the Bengal Tenancy Act, because the person (proprietor or proprietary or sub-proprietary tenure-holder) under whom they now hold does not 'own' the *bajiafti* lands. This is also very clearly shown by the fact that where the resumed grant exceeded 75 acres, a separate estate was created in 1857 and the holders paid revenue direct to Government. Moreover, in the 1837 settlement, the zamindar retained only collection expenses and handed on the whole balance (without deduction for *malikhana* or proprietary allowance) to Government, and although in the settlement of 1890-1900 the zamindar was allowed to retain the same percentage of the *bajiafti* assets as he retained

*i.e., Act VIII of 1885.
†i.e., the Cuttack Land-revenue Regulation, 1805.

Digitized by srujanika@gmail.com

of the raiyats' assets, he was permitted to do so only because the *bajiaftidars* had in the past paid pepper-corn rents, and because it was thought that, without such a concession, the rents enhanced at that settlement could not possibly be collected. On the other hand, they (except the holders of 75 acres and more) have, as already stated, made payments for their lands to zamindars for 70 years, and their lands have been included within the areas of the estates of zamindars for the whole of that period. Possibly, therefore, *by the custom of* dealing therewith, their interests have now become tenancies. Nevertheless, it seems to me that something should be done in order to preserve to them their rights in their property . . .

' Then, further on, Mr. Maddox says that under the settlement of 1890 to 1900, some of them have been recorded as tenure-holders in accordance with the provisions of the Bengal Tenancy Act. The effect of this has been to reduce them from the position of tenure-holders to raiyats pure and simple, more especially as their holdings have been distributed exactly as have those of other tenants. They have thus suffered material injury in the following way: zamindars are now treating them as ordinary tenants, not permitting their anxiety on the part of Government to transfer of right on payment of *salami*, and so on. I admit, Sir, that there is anxiety on the part of Government to compensate and to restore them to their former position, but the attempt here made is doomed to failure. For the Bill puts the matter in this form:

> " *Bajiaftidar* " means a person holding lands the title to hold which upon special terms was declared invalid by the Cuttack Land-revenue Regulation, 1805, the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819, or the Bengal Revenue-free Lands Regulation, 1825, and which has been assessed, in the course of a settlement of land-revenue, at a rent fixed for the term of that settlement; and includes also the successors in interest of such a person.

" Now it will be seen that the word ' rent ' is used. That means that the ' *bajiaftidar* ' holds the position of a tenant, and consequently it is ignored that he formerly stood immediately under Government and that revenue was assessed on him. Mr. Maddox's letter says ' loss of property '. What right can a tenant have ? Tenants have no other right in land except the right of occu-

Digitized by srujanika@gmail.com

pancy. Then again, we find that there has been an anomaly in that the same class of people in some instances have been called tenure-holders and in other cases raiyats. But an attempt is made to reconcile this in clause 6, which runs thus:

" (i) every *bajiaftidar* who is recorded, in any record-of-rights finally published under Chapter XI or under any other law for the time being in force, or in any Land Records published and finally framed under Chapter XII, as a tenure-holder, and his successors in interest, shall be deemed to be a tenure-holder for all the purposes of this Act;

" (ii) every *bajiaftidar* who is recorded in any such record-of-rights or Land Records as a raiyat, and his successors in interest, shall be deemed to be a tenure-holder for the purposes of sections 13*A* *to* 13*C* *and* 91, and a raiyat for the purposes of all other sections of this Act; and

" (iii) every sub-proprietor shall be deemed to be a tenure-holder for the purposes of sections 13*A* *to* 13*C*, 91, 92, *and Chapter XVII, and to be a permanent tenure-holder* for the purposes of section 67 ".

" Now, the same man assumes a dual capacity. He becomes for certain purposes a tenure-holder, and for certain other purposes a raiyat. In the matter of transfers, what right has a raiyat ? The raiyat has only the right of occupancy to transfer. Well, he transfers it in a deed in which he calls himself a tenure-holder. Now when a right of occupancy comes into the hands of a tenure-holder, it disappears by the doctrine of merger. What becomes of this doctrine of merger then ? A man occupying a higher status purports to sell a right to a man under him; he cannot do any such thing and he therefore sells nothing. We cannot do away with the doctrine of merger, unless we say we will disregard all established principles of law and introduce this new principle here. What becomes of the position of the zamindar when lands get into his hands in which a right of occupancy subsists ? Therefore the only way to do away with the difficulty (which arose out of an attempt to squeeze the *bajiaftidars*, as it were, into the definitions of the Bengal Tenancy Act) is to do away with the Bengal Tenancy Act. These definitions were never meant for this class of people: they are a separate class — I say, treat them separately, and make the definition such as to show their origin.

Digitized by srujanika@gmail.com

"I have been given to understand that, though the *bajiaftidar* is recorded as a raiyat, there is some entry to show that he is not an ordinary raiyat but a *bajiafti* raiyat; consequently these people form a separate class of raiyats by themselves and a separate class of tenure-holders by themselves, and they ought to be left as such. If we do not do that — though it may be the intention of Government to compensate them for the wrong that I say has been done to them — the intention will not be carried out by means of the definition in the Bill, because, if the definition is one in which their origin is lost, the Law Courts will not go on to inquire into what was the intention. This letter from Mr. Maddox, whatever might be its value here, will have no value in a Court of Law, because a Court of Law will never construe an enactment in the light of the intention of the Legislature or the intention of Government. The intention should be inferred from the wording of the Bill. I do not mean to say that I arrogate to myself such knowledge of law as to say that my amendment is perfect. I am quite willing to be convinced that a slight alteration here or there is necessary; or let the whole thing be done away with and let another amendment be made. But all that I say is that it should be left beyond doubt that the definition should be such as will show the origin of these people, that they were not raiyats, and that they were actually men on whom Government revenue had been assessed. And if they pay their revenue to the zamindar, it is because they hold a small quantity of land. This is done for convenience in the collection of revenue. My suggestion, of course, will require consequential amendments throughout the Bill, and these have been suggested.

And then with regard to clause 6, to which I have drawn the attention of Hon'ble Members. That clause speaks of every *bajiaftidar* who is recorded in any record-of-rights finally published under Chapter XI. Chapter XI of course is a part of this Bill. Up to this time there has been no record; when this Bill comes into force there will be a record. Further, clause 6 says 'under any other law for the time being in force'. What that means I do not understand; whether it means any other law, subsequent to this date or prior to this date, hitherto in force. I do not know. I do not understand what is meant by 'any other law for the time being'. It may mean any law in force when these men were first recorded. The 'record-of-rights' is nowhere defined. A 'record-of-right' can be any paper which records the rights

Digitized by srujanika@gmail.com

of a party. Thus 'record-of-rights' may mean a settlement of records of the early British administration. In Orissa these records would show the names of people whose lands have been assessed, and therefore the definition in the Bill is defective. On these grounds I do sincerely hope that there will be a sincere and serious attempt to see that the intention of Government is carried out with some attention to what the decisions of the Law Courts are likely to be".

The Hon'ble MR. DAS said:*

"Sir, as regards the remarks of the Hon'ble Member in charge of the Bill that for a long time these people have paid rents to the zamindar, that was simply because there was an arrangement between the Government and the zamindar of the estate within the ambit of which these lands lay. That was in consequence of an arrangement: the zamindar there stood in the position of a farmer: he collected the rent, and they called it rent in order to give facilities for the collection. But why is it too late in the day? We recognize that these people have lost rights, and all that my amendment would introduce is that wherever in the Bill the word 'raiyat' occurs, the words '*bajiafti* raiyat should be read, whereas in the Bill the word 'raiyat' only occurs. It may be that they have been recorded so elsewhere, and that in the record-of-rights the word *bajiafti* is entered, but it is not so in the Bill".

The Hon'ble MR. DAS said:†

"Only a raiyat is mentioned in some instances. I wish to say that it refers to *bajiafti*. All that my amendment introduces is that wherever you find tenure-holder say *bajiafti* tenure-holder, and wherever you find raiyat say *bajiafti* raiyat.

The Hon'ble MR. DAS said:

"Then the Hon'ble Member in charge of the Bill has not taken any notice of the doctrine of merger. I can very well understand why, because it is supposed we can always look down with contempt on what the lawyers think about these things. I remember that this is not the first time in my experience. I remember having raised a legal objection in this Council long ago when the

*Ibid, p. 69.
†Ibid, pp. 70-86.

Digitized by srujanika@gmail.com

Hon'ble Member in charge of a Bill gave me a sharp rebuke, and I remember the then Advocate-General coming to my rescue, saying that it was a pure point of law and that the offending clause ought to be withdrawn. Fortunately, or unfortunately — fortunately for the Hon'ble Member in charge of the Bill, but unfortunately for me — we have not got even the Standing Counsel sitting here. Of course, all that I can say is, do not let these things be given in a dubious form, and, if the intention of Government is to give a right, let it not be given in a form in which there is doubt as to how that clause would be construed by the Courts. If I am wrong (I do not want to arrogate to myself such knowledge of law as to say that my amendment is perfect), let it be settled by somebody — whether the Hon'ble Member in charge of the Bill or some one else. He has never informed me that he has consulted any lawyer, the Advocate-General or Standing Counsel, or that any other lawyers have been consulted. As it is, the Hon'ble Member in charge of the Bill did not take any notice of the doctrine of merger.

The Hon'ble MR. DAS said:

" I accept the suggestion, Sir. "

The following notions were then, by leave of the President, withdrawn:

2. The Hon'ble Mr. M. S. Das to move that clause 3 (4) (b) be omitted.

3. If notion No. 2 be not carried the Hon'ble Mr. M. S. Das to move that the word " experienced " be inserted after the word " any " in line 1 of clause 3 (4) (b).

4. The Hon'ble Mr. M. S. Das moved that the words " except the power of hearing appeals " be added after the word " provision " at the end of clause 3 (4) (b).

The Hon'ble Mr. H. McPherson proposed that the amendment be put in the amended form just suggested, namely that the words " other than functions covered section 213 " be added after the word " provision ".

The motion was then put in the amended form and agreed to.

5. The Hon'ble Mr. M. S. Das moved that clause 3 (15) be omitted.

Digitized by srujanika@gmail.com

The Hon'ble MR. DAS said:

"I am thankful to the Hon'ble Member in charge".

The motion was then put and agreed to.

The following motions were, by leave of the President withdrawn:

6. If motion No. 5 be not carried, the Hon'ble Mr. M. S. Das to move that the following be substituted for clause 3 (15), namely:

"(15) 'Proprietor's private land' means,

(i) in temporarily-settled areas, lands which were recorded as *nij-jote* in the record-of-rights published between the years 1891 and 1900, or between the year 1906 and the commencement of this Act, and lands which were recorded as *nij-chas* between the years 1891 and 1900 and again between the year 1906 and the commencement of this Act, and which are held by proprietors and sub-proprietors, other than those referred to in subclause (1) of clause (22) of this section, or by tenants holding under such proprietors or sub-proprietors under leases for a term of years or under leases from year to year; and

(ii) in permanenlty-settled areas, lands which are known in such areas as *nij-jote, khamar, khudkast, nij-chas* and which are held as *nij-jote* by custom".

11. The Hon'ble MR. M. S. DAS to move that the following be added as an Explanation to clause 3 (17), namely:

"*Explanation* — The revenue payable for *bajiafti* land to the proprietor of an estate, settled on special terms by the Government with such proprietor, shall be deemed to be rent".

The Hon'ble MR. DAS said:

"I do not know what transpired in Select Committee, as I was unfortunately not present there, but at any rate, if the interpretation suggested is that which was put upon the clause by the Hon'ble Member in charge, I should say, why not give expression to one's intention? Intentions are like Goldsmith's wishes: 'If wishes were horses, beggars would ride'. Intentions

Digitized by srujanika@gmail.com

are nothing. A man may intend to do many things, without giving effect in substance to his intentions. So it is much better to have intentions fully expressed. But apart from that, I am opposed to the principle underlying this clause. This clause really means that, as soon as an actual cultivator attains a prosperous condition and becomes an owner of such land, he must be removed from the position and condition of a raiyat. Directly he is presumed to be a tenure-holder, those cultivating under him will have occupancy rights; consequently his position may be exalted in social status, though he may not have enough to feed his stomach, or clothe his back, with. But it is highly desirable on economic grounds that we should not have only raiyats with an average holding of an acre or ·80 of an acre, and that those men, who begin life as cultivators with a holding of one acre should be given every facility and encouragement to become prosperous cultivators so long as they are cultivators and actually cultivate the soil. Without this class of people it is not at all possible, Sir, to have anything in the shape of agricultural improvement. We have been given by Government, very kindly, information about manure and other means of cultivation, but then, where he will never be in a position to tie down a raiyat to one acre of land where he will never be in a position to better himself. Of course, if a man does not cultivate himself, let him be a tenure-holder. Why create a presumption in the matter ? Why have difficulties thrown in the way of a man bettering himself ? He may have a number of men serving under him, or he may go into partnership with another man, and the partner will then find that a presumption exists against the cultivator, and, taking advantage of this, will try to raise the position of his partner to that of a tenure-holder with a view to getting the right of occupancy.

" My contention is that a certain class of raiyats is being driven to poverty, while those who are thrifty and can manage their own affairs better are attaining a prosperous condition. Consequently, it is necessary, on economic grounds, that we should leave room for prosperity and growth of a certain class of raiyat and do nothing here which would encroach upon the tendency i nthat direction. On these grounds, Sir, I support the amendment of the Hon'ble Member. "

The following motion was, by leave of the President, withdrawn:

16. The Hon'ble MR. M. S. DAS to move that the words " of a holding " be inserted after the words " area " in line 1 of clause 5 (5).

Digitized by srujanika@gmail.com

Clause 6

The following motions were, by leave of the President, withdrawn:

18. The Hon'ble Mr. M. S. Das to move that sub-clause (i) and (ii) of clause 6 be omitted.

Clause 10

21. The Hon'ble Mr. M. S. Das moved that the words "or by contract" in line 2 of clause 10 be omitted.

He said:

"The clause in which it is sought to make an amendment is one which aims at preventing frequent enhancements and lays down that, one enhancement having been made, a second one ought not to be allowed within a certain time, viz. 15 years. The clause speaks of enhancement having been made by the Court or by contract. When an enhancement has been made by an order of the Court, it should not be allowed to be received, or a second enhancement made, within 15 years, and so also in the case of enhancement by contract. I have three motions, numbers 21, 22 and 24. If Your Honour will kindly allow me, I will take them up together and point out the lines in which, in my humble opinion, the alteration of the clause is necessary, leaving it to the Hon'ble Member in charge to see whether he can accept the principle, and, if so, how he would alter the clause; and whether he would accept the provision in amendment 24, or in some other form".

The Hon'ble Mr. Das continued:

"All that I mean to say refers to the case of a contract; a man makes a contract and afterwards there is a fresh contract, say for instance, in regard to improvements. A man makes a contract that he should pay so much for the tenure to the zamindar; afterwards he enters into a fresh contract with the zamindar that "If you will make some irrigation here, or if you will make such and such changes, I will give you Rs. 500 more". In that case, there ought to be a further enhancement allowed. I cannot see that that is not altogether an enhancement in the strict legal sense of the term. It is really entering into a fresh contract on

Digitized by srujanika@gmail.com

new considerations, and that is what it is sought to secure by having these alterations. If that be not acceptable to the Hon'ble Member in charge, I hope he will accept the proviso suggested in amendment No. 24, viz.

> 'Provided that nothing in this section shall apply to a contract by which a tenure-holder binds himself to pay an enhanced rent in consideration of an improvement which has been, or is to be, effected in respect of his tenure by, or at the expense of, his landlord'.

"Of course that does not at all clash with the principle which is meant to be secured by the clause. It actually contemplates a case outside the purview of the clause as it stands, and we have cases of reclaiming waste land, in which the tenants may want to enter into a fresh contract. Then, there would, if the clause stands as it now is, be difficulty in having such a fresh contract. We have often been told that the Bengal Tenancy Act* has stood the test of 27 years. I have often heard this here and elsewhere, and that therefore it must be shown why it should be altered. We also know that the Bengal Tenancy Act has stood the test in creating infringements on other people's rights and creating a revolution in Orissa during the last revisional settlement, and that it aroused Mr. Maddox's anxiety to remedy evils that had been created by this settlement, and yet we are repeatedly told that the Bengal Tenancy Act* has stood the test of 27 years. That is actually begging the question. We came here to legislate, to have a Code which is particularly suited to the conditions of Orissa, and we deny that the Bengal Tenancy Act should be adored, worshipped and strictly followed because it has been successful in Bengal; and the point we make is that we know that the Bengal Tenancy Act† will not do in all respects, for, in some, it has done mischief in Orissa. We can actually show that there are conditions in Orissa to which the Bengal Tenancy Act ought not to apply, and in these circumstances I hope the Hon'ble Member in charge will see his way to accept my amendment either as a proviso or in any other form so as to give effect to the proposition as I have stated it; that is, so as to provide for the further contract of a different nature altogether."

*i.e., Act VIII of 1895.
†i.e., Act VIII of 1885.

Digitized by srujanika@gmail.com

The Hon'ble MR. DAS said:

" I have simply to say this much. I expected, Sir, that there would be no objection. Believing as I do that the Bengal Tenancy Act is responsible for all the labour which the Hon'ble Member in charge of the Bill, and the Hon'ble Mr. Maddox have taken to have a special Act, I expected that there would be no serious objection to making matters plain. As regards the objection which has been stated in other quarters that, if the wording of the Bengal Tenancy Act is altered in the slightest degree, the probability is that the Courts would infer that there was some special intention in making this alteration, and consequently would construe the Bengal Act differently, that is an argument which has force only in cases where the Bengal Tenancy Act is used side by side with another Act, and in which a certain section has been altered in a slight degree; but when it is clear, as it will be from the preamble and other parts of the Orissa Tenancy Bill, that it is only meant for the special circumstances and conditions of a particular country and people, certainly there will be no difficulty whatever, for it will be obvious that Government was driven to the necessity of a special Code by the experience that the Bengal Tenancy Act will not do in all things for Orissa.

The motion was then put and lost.

The following motions were, by leave of the President, withdrawn:

22. If motion No. 21 be not carried, the Hon'ble Mr. Das to move that the words " on the same grounds " be inserted after the " Court " in line 3 of clause 10.

23. The Hon'ble Mr. Saiyid Wasi Ahmad to move that the words " or during which enhancement has so commenced " be inserted after the words " so enhanced " in line 4 of clause 10.

24. The Hon'ble Mr. M. S. Das moved that the following be added as a proviso to clause 10, namely:

" Provided that nothing in this section shall apply to a contract by which a tenure-holder binds himself to pay an enhanced rent in consideration of an improvement which has been, or is to be, effected in respect of the tenure by, or at the expense of, his landlord ".

Digitized by srujanika@gmail.com

He said:

" Sir, I have already explained that a proviso should be added to this clause which would make it clear. It is now only clear in a certain class of cases, instead of generally, and leaves the contract open. It says ' nothing shall apply to a contract whereby a tenure-holder binds himself to pay an enhanced rent in consideration of an improvement which has been, or is to be, effected in respect of the tenure by, or at the expense of, his landlord '.

" Of course, the general objection will be that the clause really means that. That may be ".

The Hon'ble MR. DAS said:

" That is what I do not understand, Sir. The Hon'ble Member must understand that he is legislating for the most backward and stupid people. We are very slow of comprehension, as can be seen in my own case; then why not give us a little more light ? "

The Hon'ble MR. DAS said:*

" Sir, I beg to submit that the introduction of these fresh amendments at this stage handicaps us very much. This Bill has been in the hands of a Select Committee, and I was told that this Bill has been thought over by Government for years and that the Select Committee went through it and recast it; and now, when we are actually considering the Bill, certain important amendments are made, and we find them on the table as we come to this Council. In justice and fairness to us, I think certainly a little more time ought to have been given to us. When I moved the other day that this Council had not time enough to discuss this Bill, and therefore that further proceedings in connection with this Bill should not be moved in this Council, I was told that this Council was certainly the only competent Council that could deal with it, and now we are faced with amendments that are brought in at this stage; and unless the Hon'ble Member in charge of the Bill wishes us to take up the consideration of these amendments on some subsequent day, it really comes to this that certain amendments are made on certain important provisions of the Bill, and that we are required to proceed with them immediately; if this does not justify my saying that actually this Bill is being rushed, I do not know what does. That is the condition in which Orissa is placed here. Highly-paid official

*Ibid, p. 89.

Digitized by srujanika@gmail.com

members of the most eminent service in the world have laboured for years, and then they produce a Bill which undergoes considerable change in the Select Committee, and now, at the last moment, we are faced with certain further changes of an important character! And I submit that certainly these changes ought not to be discussed today".

The Hon'ble MR. DAS said:*

"I do not say that these amendments should not be accepted, but what I want to make clear is that I have not intelligence enough to actually take their bearings within so short a time. There are Hon'ble Members who have said that these fresh amendments embody concessions. I do not know whether these Hon'ble Members have actually studied the Bill and whether they can say in what manner these amendments are concessions. Of course general remarks of that nature, viz. that they are concessions and matters for congratulation — for people who do not understand the details — are very easy. I should like to hear from these Hon'ble Members some remarks pertinent to the subject showing that they had studied the Bill, and then certainly their congratulations might be of value to us. To congratulate when one is in the dark and does not understand the mischief that perhaps is being done, is easy enough".

The Hon'ble MR. DAS said:†

"Of course we have always to face the rock of the Bengal Tenancy Act, which has sheltered the Settlement Officer. But then there are peculiar circumstances. First of all the circumstance that up to the time that the Bengal Tenancy Act was introduced for the purpose of revenue settlement, the zamindars did buy rights of occupancy wholesale and did enjoy them. Then we must take into account the fact that the zamindars of Orissa are not the zamindars of Bengal. The Hon'ble Member in charge of the Bill has mentioned that there are zamindars who are the masters and proprietors of a few bighas of land. This is perhaps worse than misfortune itself. Then we must take into consideration that Orissa is a place which is often exposed to floods. The floods come in and deposit sands on lands and very often the *nij-jote* lands of the zamindar are covered with sand. I brought to the notice of the Hon'ble Member in charge of the

*Ibid, p. 93.
†Ibid, p. 97.

Digitized by srujanika@gmail.com

Bill the fact that I know of a certain zamindar, who is said to own 3,000 acres of *nij-jote* land, out of which 1,000 acres are unfit for cultivation. Now the consequence is that while nature has been trying and persisting in her course to deprive the zamindar of his private lands, the Bill, as it stands before us, defines the limits of these private lands. The question is, is not the zamindar entitled to any kind treatment different from what is accorded to the zamindar in Bengal? The Hon'ble Member in charge of the Bill, when introducing the Bill, said for these reasons they have been deemed entitled to some considerate treatment. I suggested to the Hon'ble Member in charge to allow the zamindar, in cases where his private land has become covered with sand, to buy up land in execution of a decree against the tenant, and actually to take, as his private land, as much of the tenant's land as he (the landlord) had lost out of his original private land, so that actually the zamindar might feel that Government had given him so much private land. But the Hon'ble Member, with the strength, or I may say the tenacity, whichever it is, of people living in the north of England, would not give in. Then, Sir, when a man finds nobody else will buy the land, he has to buy the holding himself. He has no motive to do so if anybody else is willing to buy it. This shows the state of things — that there is nobody to buy the holding; consequently there is no competition for the land: in that case he keeps it. Some time after there is competition. At a bad time he has to cultivate the land himself; he employs labour, and, when a good time comes in, the raiyat comes in and says: 'Well, will you allow me to cultivate your land?' and, as soon as he comes in, he acquires the right of occupancy. Of course, where there is keen competition, I should be the last person to raise the question. Certainly, if there is great competition, the right should be provided for; and I have always stood up for the raiyats, although today, by the kind permission of the Secretary, Mr. Watson, I am sitting here with a different and higher class of gentry* ".

The Hon'ble MR. DAS said†:

" We have been told that the Bengal Tenancy Act has been here for so many years and that it has stood the test for so many

*The Hon'ble Member was not in his usual place, having asked for a seat next to the Hon'ble the Raja of Kanika, who was accommodated alongside other representatives of the landed interest.

†p. 104.

Digitized by srujanika@gmail.com

years. It sounds like this, 'I say that section 78 of Act 10 of 1859* has worked satisfactorily for so many years. Why kill it as a reward for a thing that has worked satisfactorily and replace it by another because it is not wanted? We must do away with the old things and have new things'. Then the very fact that this proposal comes from the zamindars shows that they are not anxious to get rid of the raiyat. All that they want is an additional lever, a further screw, to stir up a raiyat to pay his debts. The Privy Council, in one of their judgements, said that the trouble begins with the decree-holder when he gets his decree. It is in the execution of the decree that the judgement-debtor always has ample opportunities of evading the pursuit of the decree-holder. The work of execution in the matter of decrees is not exactly so easy as the work of an executioner. Secondly, Sir, all that is needed is, that the tenant should understand that he can be evicted unless he pays up his dues, and that he must raise the necessary money. The question really assumes this form. Money has to be got: the zamindar is in an impoverished condition; and we know from statistics that he has to incur debts. The raiyat owes the zamindar money, and the question is whether the zamindar should incur debts or the raiyat should incur debts. If the raiyat finds he is in danger of eviction he raises the money and pays up. This is no hardship to the raiyat; in practice the system has worked satisfactorily; while, on the contrary, the Government will not give the zamindar decree-holder any right over the land which he buys in execution of his rent decrees, so he is naturally anxious that these holdings should not pass into other hands, and the very fact that the zamindar does not want this to happen, but wants to secure another remedy in the shape of ejectment, shows that he finds difficulty in getting satisfactory tenants. Therefore, while he is anxious to have the raiyat, he is also anxious to have what has hitherto proved a very successful warning or threat. While it is necessary that the interests of the raiyat should be protected, it is also necessary that facilities should be given to the zamindar to collect his dues. After all, the zamindar is certainly the best judge; he knows the difficulties much better than a Government official.

"On these grounds I think that this ought to be allowed."

*i.e., the Bengal Rent Act, 1859.

Digitized by srujanika@gmail.com

The Hon'ble MR. DAS said:*

"There has been some misconception about this. The object of the motion is that some time should be given to judge the effects or the benefits of the improvement. Of course the Hon'ble Member, Mr. Kerr, says that if a landlord does not maintain or keep up the improvement, it is not at all fair that he should have the enhanced rate of rent. That is simply justice. But then the question is this: There may be improvements of such a nature that the benefits of the improvement would not be perceivable until some time after. Then the question is whether, as soon as improvements are introduced and the benefits are not apparent on the surface, so far as the cultivator is concerned — a man should not be allowed to come in at once and say, 'You may have made that embankment but I have not received the benefit of it'. For instance, there is an embankment saving him from inundation, but there have been no floods. The man may turn round and say, 'I did not require the embankment this year, and why should I pay for it?' The motion is that sufficient opportunity should be given for sufficient time to elapse.

"Then we must take into consideration the question of a decree under this clause. The landlord goes to the Court and gets a decree for enhancement, and the Court, on the materials before it, decrees an enhancement. This clause however provides that the tenant can go and ask for a review of that decree. Well, we have first of all to show on what materials the Court came to the decision that the tenant ought to pay the enhanced rate. Then we find that the tenant can come round after 15 days or a month and ask for a review. There is nothing to prevent him from doing that on the wording as it stands in this clause. All that the motion means is that, the decree having been once passed to that effect, the tenant should not be allowed to come and petition for a review or a reconsideration of the decree till two years have elapsed from the date of the enhancement decree. It only means that, once the Court has given a decree, there should be no provision leaving the period of selection to the choice of the tenant at any time to move the Court to set aside the decree?"

The Hon'ble MR. DAS said:

"I did not confine my remarks only to a case of embankment".

*Ibid, p. 108.

Digitized by srujanika@gmail.com

The Hon'ble Mr. Das said:

"I don't think it is necessary for me to support the motion; at the same time I see danger ahead. I heard the Hon'ble Babu Bhupendra Nath Basu say that he was anxious that the principle in its entirety should be extended to Orissa, because it is a principle which is welcomed and, within his knowledge, has worked satisfactorily in Bengal, and has prevented disputes. Therefore it should be extended, as a matter of fact, to Orissa. But as a matter of fact we have nothing to do with principles which belong to Bengal only. We are dealing with the state of things as regards Orissa. I remember the other day the Hon'ble Maharajadhiraja Bahadur of Burdwan said that he had heard in my speech the song of the dying swan, and all that I can now say is that Bengal has given us enough of principle, and methinks, I hear today the savage roar of the voracious tiger, the man eater of Bengal!

"Well, I think, Sir, that I have nothing to say to the clause as it stands. There are further concessions which are being very considerately made by the promoters of the Bill, with special reference to the conditions of Orissa, but, in the matter of the principles that the Hon'ble Babu Bhupendra Nath Basu may give us, I may say that I am not prepared to congratulate myself or to thank him for his liberality".

The Hon'ble Mr. M. S. Das moved that the word "public" be inserted before the word "religious" and also before the word "charitable" in line 1 of clause 41 (6) (ii).

He said*:

"Sir, considering the peculiar conditions of Orissa, some allowance has been made in the provisions of the Bill with regard to commutation. I fully appreciate the kindly intention of Government in doing this. I, for myself, do believe, Sir, that commutation works hardship in some cases, and it is in the interests of the raiyat also that in some cases he should give produce. If an exception ought to be made, the exception ought to be made in favour of institutions, charitable or religious, provided they are of a public nature. Everybody has a god, and charitable institutions and religious institutions ought to

*Ibid, p. 121.

Digitized by srujanika@gmail.com

include, I suppose, family religious institutions. It will be very difficult to prove whether the produce is really used for religious or charitable purposes or not, and I should think the intention of the Legislature in introducing this provision to safeguard the interests of the raiyats will be defeated by leaving open a trap-door for escaping from it. These are my reasons, and I submit that the clause ought to be amended so as to read ' public religious ' or ' public charitable endowment '."

The Hon'ble MR. DAS said:

" Sir, having regard to the remarks which have fallen, I beg to withdraw this amendment. "

(The motion was then, by leave of the President, withdrawn.)

The Hon'ble MR. DAS said:

" Sir, reference has been made to Act X of 1859* and also to the Bengal Tenancy Act†. It has been said that these words are to be found in those two Acts. But I think there was a statement made by the Hon'ble Member to my left‡ to the effect that as a matter of fact the words are simply dead letters and are never acted upon. The point is, Sir, that in cases like this experience should be the basis of legislation; this enactment has actually proved to be a dead letter; to re-enact it would be like insuring a dead person. Any law which creates a stringent relationship between two classes, who, like the landlord and the tenant, have been in the relation of payer and payee, should be avoided, unless the absence of it has brought about a worse state of things. An enactment which has been in force for a long time but has never been put into force — if that enactment is made more stringent by new legislation, the result will be that these people, through no fault of their own, will be compelled to enter agreements and leases which would involve expense, while the absence of this enactment has not caused any inconvenience or hardship in the past. If the Hon'ble Member in charge of the Bill or the Hon'ble Mr. Maddox — who have said that difficulties are sometimes experienced in distinguishing between *nij-jote* and *nij-chas* lands, and I admit that sometimes there are such difficulties — if they could have said that in

*i.e., the Bengal Rent Act, 1859.
†i.e., Act VIII of 1885.
‡Hon'ble the Raja of Kanika, Rajendra Narayan Bhanj Deo.

Digitized by srujanika@gmail.com

75 per cent or even in 60 per cent of cases, there are such difficulties, I certainly would not have supported this motion. But, as a matter of fact, we know that friendly relationship exists, and has existed for long, between the zamindar and his tenant. Then why introduce a law which will make that relationship unfriendly ? "

The Hon'ble MR. M. S. DAS moved that clause 49 (c) be omitted*.

He said: " This is a clause which has been added in Select Committee. There are lands belonging to Government or to local authority. As far as Government lands are concerned, I am not in a position to say exactly how they stand; but I know that, a few years back, the lands owned by local authorities were let out to tenants without any restriction as regards the accrual of occupancy rights. Before a provision of that nature, which actually takes away the rights of other people, or might take away vested rights of other people, is enacted, it is but fair that stricter inquiry should be made as to whether these lands, which are held by these people under such circumstances, are lands in which no right of occupancy has accrued. We have not got any facts before us in this connection, because this clause was introduced in Select Committee. Secondly the clause is of an important nature, because the position of Government will certainly be exposed to severe criticism by the public. Government has given lands, and the people who cultivate the lands will think that Government, who talked so much of protecting the interests of the raiyat, have deprived them of rights which they could acquire under the zamindars. Now to legislate and take away such vested rights would be, I think, extremely unfair ".

" We are legislating now to take away vested rights. To do so would be prejudicial to the prestige of Government, and certainly not fair to the zamindars. I think, Sir, in a case of this nature, full inquiry ought to be made, for I wish to protest as strongly as I can, and with as much emphasis as it is possible for me to command, against any legislation which disturbs vested interests. When a man has got a right, you have no right to take away his right. That is, I submit, the worst form of despotism. Therefore, on this ground, I submit that this clause should not be passed. "

*Ibid, p. 128.

Digitized by srujanika@gmail.com

The Hon'ble MR. DAS said:*

"I do not say, Sir, that it is not necessary to have such a provision in the interests of the public. Far be it from me to say that. But what I do say is this, that we have not had sufficient opportunity to inquire into the state of things in Orissa. What is the present state of things in Orissa with regard to lands covered by this sub-clause? In the absence of full knowledge on this point it is not safe to legislate here. The Hon'ble Member in charge of the Bill says that it is not intended to give retrospective effect to this sub-clause, but I do find a difference in this, that whereas, in a previous clause, it is said that, in order to protect land from accrual of right of occupancy, the land must have been given out under certain conditions from year to year, in this clause there is no such provision".

The Hon'ble MR. DAS said:

"We do not find the same conditions. I think it my duty to Government to raise my voice against any difference being made between the private zamindar and the Government zamindar, simply because the latter is the Government. Right should be respected both by Government and the raiyat, and perhaps by Government all the more; and this I say because, whatever may be my position, I stand second to none in my anxiety to uphold the prestige of the British Government, and nothing prejudices it so much as to make a difference between private rights and Government rights".

The Hon'ble MR. DAS said:†

"The amendment proposed really comes to this, at least the form in which it has been put by the Hon'ble Member really comes to this, that this clause, as it stands, removes all distinction between heritable and resumable tenures. There are certainly heritable tenures and resumable tenures, and I do not think that it can possibly be the intention of the Hon'ble Member in charge to remove that distinction, and make *resumable* tenures *heritable* tenures. But then we have to take into consideration by whom this Act is to be administered and what the wording of the Act is. The Collector, after giving notice to the landlord to appear and be heard, shall decide whether the applicant is the

*Ibid, p. 130.
†Ibid, p. 134. Date 21 March 1912.

Digitized by srujanika@gmail.com

successor or not. And "successor" means a person who succeeds by testamentary or intestate succession, and the Collector has to decide whether simply he is the successor under the Act, or rather the clause as it stands. It does not authorize the Collector to go into the question whether the property does descend to the successor or not. The Collector simply decides whether the person is the successor or not. The Collector would think he is the successor, because, in regard to some other property, he is so. For instance, he has inherited his holdings and he has inherited his house. And as this Act has to be administered by Deputy Collectors too, they might think, "Well he is the successor with regard to other properties; why should he not be successor in regard to this property as well?" I think the Hon'ble Member in charge of the Bill will agree with me that the wording, as it stands, is liable to be mistaken in that way, or rather misinterpreted in that way. Then, of course, neither this clause nor any amount of legislation done here can possibly remove the difference between *resumable* tenures and *heritable* tenures. But there we disagree with the Hon'ble Member in charge: he says, why use unnecessary words? We say, "words do not cost us much, neither does the printing, and it is better to remove doubts".

"Now the Hon'ble Mr. H. McPherson says — I have taken down his words — 'that we do not want to increase litigation by suggesting means of litigation'. But what becomes of the poor raiyat when you put in all these reservations? — In every instance the zamindar can oppose. Now the thing is this: the zamindar, no doubt, has a right to the land, but we must remember the raiyat's share in it also; he it is who has brought the land to a better condition, and we all know the old couplet

When Adam delved and Eve span,
Where was then the gentleman?

The Hon'ble Mr. Das said:

"I do not look upon this clause as a penal clause. I may have made a remark to that effect, but what I really meant, as I shall perhaps show hereafter, is that the Bill gives us the character of being perhaps the most turbulent people under Your Honour's Government. I do not like to say a word about the zamindars of Bihar or Bengal. I do not know them, and perhaps

Digitized by srujanika@gmail.com

there are many very kind or very good landlords amongst them; at any rate, most of our zamindars are good enough and what I say is, do not throw the apple of discord amongst them and their tenants. If they can settle matters between themselves, let them do so. If a raiyat dances attendance on a zamindar and works a little for him, he may thereby get his fee or a portion of his fee taken off but if he sues him in Court, he finds a formidable enemy, and I would rather not hear 'the song of the dying swan' from the raiyat.

"If the Hon'ble Mr. H. McPherson has sympathy with my views, I expect him to take his courage in both hands and support me."

The Hon'ble Mr. M. S. Das moved* that the following be substituted for clause 25A (3), namely:

(3) "If the landlord demands a higher fee than that prescribed in clauses (1)(a) and (1)(b) of this section, the transferee or his successor in interest may apply to the Collector. The Collector, after notice to the landlord, shall (?) make a summary inquiry. If the Collector is satisfied that the complaint is true, he shall inflict a fine on the landlord not exceeding twice the excess fee demanded. If the Collector finds that the complaint is false, he shall direct the applicant to pay all legitimate costs incurred by the landlord during the summary inquiry."

He said:

"Sir, first of all I shall ask the Hon'ble Member in charge of the Bill to be a little indulgent to me and allow me to make a slight alteration in the amendment so as to include also sub-clauses (4) and (5). It was, it seems, an oversight on my part or my typewriter's mistake".

The Hon'ble MR. DAS said:

"Sir, I have very carefully, and with much interest, listened to the many speeches which have been made regarding the condition of the raiyat and what can be done to help him. Unfortunately the raiyat is not here — the raiyat is not to be found anywhere in this hall, and all of us say that we are his representatives. So also, one sees an agent of a Gorakshini Sabha, with a picture of the cow, going about collecting funds to save cattle from slaughter; you see also the bull in a picture of Bovril; and, in the same way, everybody thinks he can

*Ibid, pp. 154-157.

Digitized by srujanika@gmail.com

represent the raiyat. I do not say that I am a representative of the raiyat; I wish I were. I should certainly feel a greater pride in occupying this seat here, and I would not mind standing at the farthest point of this hall so long as I could say fitly that I represented the poor raiyat. Sir, I have mixed with him; I have made my feeble attempts, unsuccessfully, I must say, to improve his condition. Now, the question that has been put before us is that of transferability. I have read the suggested clause, and, when I go through its cumbrous provisions, and see the different states at which the landlord may oppose the raiyat, I ask, what does all this 'ability' amount to? The clause adds to the ability of opposition, but certainly not to the ability of transfer. The most unfortunate circumstance in connection with this question is that it is not possible for us to place ourselves in the poor raiyat's position when he is on the verge of starvation and wants to sell a plot of his holding. Perhaps the floods have come, starvation stares him and his family in the face, his house has been washed away, and then he wants to sell a portion of his holding in order to leave his family there in his village and to go to some place to work as a coolie, and he wants his railway fare; that is the time when he wants to sell his holding. Now, none of us can place ourselves in that position and realize the pinch of necessity which afflicts him at that particular time. Sir, everyone — many at least — can play Hamlet's ghost on the stage; but does anybody realize the feelings of Hamlet's ghost? It is necessary for one to die like Hamlet, be buried, and then come out of his grave, before he can know what the feelings of Hamlet's ghost were. So it is not possible for us to realize the raiyat's position. He wants to sell his land; he wants to go away at once; and I ask you, are you improving his position by inserting all these clauses here which enable the zamindar to say that the raiyat is a bad man and to raise all these objections? The transferee buys, and the zamindar bargains with him; if the zamindar bargains for a thief, let him have a thief; but let the poor raiyat who wants to have a little cash have facilities. This clause only puts stumbling-block in his way.

The Hon'ble MR. DAS said:

"All that I mean by bringing forward these explanations is to consider whether the landlord has got a sufficient case for refusing his consent to the transfer".

Digitized by srujanika@gmail.com

The Hon'ble MR. DAS continued:

"All these restrictions must be removed if you want to give the raiyat real facility of transfer. I do not want to disturb the right of the zamindar. It is settled that he should have 25 *per cent* of the consideration money. The remedy is not sought for all cases. The Hon'ble Mr. H. McPherson says that, in most cases, the zamindar receives 25 *per cent*, and that it is only a few grabbing zamindars whose cases require special legislation. Very good. Then who ought to be punished? These grabbing men ought to be punished. The majority of zamindars are good; they allow the transfers. I am talking only of Orissa. I have no right to talk of Bihar or Bengal; in Orissa the majority of zamindars are willing; they allow the raiyat to transfer. Very good. Then there are only a few who don't, and what is the evil? These few want more than 25 *per cent*. Very good. I say, if they want more than 25 *per cent*, punish these unscrupulous zamindars. As soon as a zamindar demands more, the raiyat goes to the Collector and says—"the law authorizes 25 *per cent* and this man wants from me 50 *per cent*"; and the Collector inquires and says to the zamindar—'you wanted 25 rupees more, you will have to pay a fine of 50 rupees'. This he assesses in a summary way.

"The zamindar, if he is a good man, will take 25 *per cent*; if he is a bad man, he will want more than 25 *per cent*, and the transferee, by some means, will have to make it up with the zamindar. Now, the zamindar knows that he has got all this power of resistance, and that he can object on such and such grounds; so he says to the transferee—'If you go to the Collector, I will go to the Civil Court; I will take the matter to the highest Court, and you can calculate the cost of litigating with me. Instead of that, I suggest that you pay half of that amount to me'. That is what will be done under the provisions of the Bill. Under my proposal all these dangers will be removed".

CLAUSE 50

The Hon'ble Mr. M. S. Das* to move that the word "raiyat" be inserted after the word "*bajiaftidar*" in lines 1 and 4 in the proviso to clause 50.

*Ibid, pp. 161-163.

Digitized by srujanika@gmail.com

The Hon'ble MR. DAS said:

"I have the same amendment, and, if Your Honour permits me, I will make some remarks".

The Hon'ble MR. DAS said:

"This I oppose, because it is really injurious to the interests of the raiyat. What was the actual state of things when the revisional settlement work began? From the year 1840, when we had a revenue settlement, up to some time in 1890, the raiyat was in the habit of breaking up waste land and bringing it under cultivation and enjoying the produce without paying any rent for it, because the zamindar did not care to measure the land. From time to time the zamindar measured the land, and then he and the raiyat settled up accounts and the raiyat paid something. Of course, it will be said that the raiyat was not really a raiyat there; it was the zamindars property and he was encroaching upon it. So he was no doubt in that case, but the zamindar by custom had allowed him to use the land; there was good feeling, and the zamindar showed him that indulgence. But the revenue settlement work began. Let me quote the words of the Hon'ble Mr. H. McPherson with regard to these waste lands:

> 'The Government of India have suggested that the relations of landlord and tenant in Orissa are not such as to justify interference of this kind, but in my opinion there is nothing which is more essential for the preservation of satisfactory agrarian conditions in Orissa than the authoritative settlement of the disputes that have arisen in the course of revision, or will arise in the course of maintenance, between landlord and tenant over this and other like matters. It is one of the regrettable results of revision work that it has brought to the prominent notice of the proprietors thousands of cases of petty extension of cultivation, each of which has become a bone of contention between landlord and tenant, the landlord claiming that the tenant is a trespasser and refusing his permission to the inclusion of the area in the original tenancy except on payment of a rack-rent, the tenant claiming, according to old custom, to hold at the average village rate or at the rate paid for similar lands in the vicinity. Had there been no revision settlement and maintenance, the tenants would, in 99 cases out of 100, have

Digitized by srujanika@gmail.com

gone on extending their cultivation without let or hindrance, and, at the next land-revenue settlement they would have been assessed to rent for the excess area at the average village rate, without any claim or remonstrance on the part of the zamindar. During the course of the last revenue settlement operations, no proprietor, to my knowledge, ever maintained that his tenant was a trespasser in respect of excess area, or claimed a rent in kind. The custom is undoubtedly, as stated by Mr. Taylor, that tenants in Orissa break up waste lands in villages with or without the express consent of the landlord, and from time to time the latter measures up the new cultivation and settles a fair rent which formerly used to be the village rate for similar lands in the vicinity. The extreme rise of prices in recent years has tempted the cupidity of landlords, and they are endeavouring to break down the old custom. It is our duty to stand between the landlord and tenant and see that the latter is not wronged by the former. We have largely created the difficulty by our interference. We should not run away from it '.

" The Hon'ble Member says ' we have largely created the difficulty by our own interference and we should not run from it ', and today he wants to interfere again and bring about unfriendly relations. It reminds me of the traditional mother-in-law in an English house who comes and disturbs the friendly relations in the family, and says ' you don't agree, and I must be here to see that you do agree '. But this disagreement comes about as a result of her presence, and yet she says she must be there !

" But looking at the matter from a serious point of view, there is the Government of India's opinion that the existing relations between landlord and tenant do not justify such a measure. This clause is borrowed from Chota Nagpur. But how long has it been in force in Chota Nagpur ? It has been there since 1908. I was reading only the other day a part of the speech delivered by the Lieutenant-Governor of East Bengal* — a part of his farewell speech to his Council — and noted that he said ' experience should be the basis of legislation, and we must proceed slowly '. We lose sight of the fact that during the last few years there have been several Acts introduced into Chota

*Sir Charles Bayley.

Digitized by srujanika@gmail.com

Nagpur with a view to placing on a satisafctory basis the relations of landlord and tenant there, and that, as yet, there has been no time to test their efficacy. Further, I beg to raise a very serious objection which, in my honest opinion, is deserving of consideration, and that is, that having in view the remark of the Government of India that the relations of landlord and tenant do not call for this clause, it is for consideration whether the consent of that Government should not be taken to the introduction of this special clause by the Select Committee in Select Committee ".

The Hon'ble MR. DAS said:

" It is the same principle but it is very different in form. Then, Sir, we have had sufficient experience during the revision and revenue settlements of Orissa as regards the prudence and desirability of introducing one Act, which was meant for one part of the country, into another part of the country. The Bengal Tenancy Act has been introduced in part into Orissa, but, despite that fact, Government found out that a separate Act for Orissa was necessary; and now, in the face of that experience, — an experience the result of which is before us, and has been the occasion of much discussion in this Council — it is decided to import into Orissa a part of the Chota Nagpur Tenancy Act*.

" Looking at the Chota Nagpur Tenancy Act I find this, Sir, that the oral or written consent of the landlord for the conversion of a raiyati holding shall be required in every case. Now, the state of things in Chota Nagpur is very different from that in Orissa. Let me quote from the Chota Nagpur Act. '*Korkar* lands, means by whatever name locally known, such as *bahbala, khandwat, jalsasan* or *ariat,* which have been artificially levelled or embanked primarily for the cultivation of rice, and which previously were jungle, waste or uncultivated, or were cultivated upland or lands which, though previously cultivated, had become unfit for the cultivation of transplanted rice'. These different kinds of waste lands include also lands which have been cultivated once and have been allowed to grow waste. But the condition of things is very different in Orissa, and nobody can say how this Chota Nagpur provision will work in Orissa. Further, the introduction of this clause into Orissa will certainly disturb the happy and peaceful relations between landlords and tenants in

*i.e., Bengal Act VI of 1908.

Digitized by srujanika@gmail.com

Orissa which have existed hitherto. Who wants it ? Neither the zamindar nor the raiyat. The zamindar may be foolish. He sleeps over his rights. He allows the raiyat to cultivate his lands without taking any rent from him. That is his lookout. But I suppose he is not so foolish, but knows that, after all, the raiyat is something like a garden to him. Everytime the zamindar goes to him, he will have something from him, and therefore he allows him to have all these advantages. Again, the raiyat does not want it. The clause is introduced solely to please the Settlement Department. The Settlement Officer is there and he says: 'I have created one disturbance, and I mean to do the same thing which created the disturbance before'. That is the sort of argument. I submit that this clause ought to be removed and that it is not called for. It is really legislation to disturb a happy and peaceful state of things. We do not want to increase litigation and friction between landlord and tenant. The one is rich and the other is poor. There must, at times, be a conflict of interests between these two classes of people, but the less the prominent points of this conflict are brought to the notice of the parties, the better for the parties, and the better will be the relations between them. If an attempt is made by legislation to bring into prominence the diverse relations existing between the two, the result will be friction, and I think peace ought to be bought at any price, even at the price of the desire to legislate".

(The Hon'ble Mr. M. S. Das moved that clause 54A be omitted.)

The Hon'ble MR. DAS said:*

"Sir, I had no intention to speak on this amendment, but as the Hon'ble Member who has moved the amendment has referred to me, all that I can say is that the question is one which raises a difficult problem as to what can be done for the raiyat. He is ignorant. He pays his rent for one year, and the receipt is given for another year. He cannot read. There will always be men in the world who will take advantage of the ignorance of other people, and surely zamindars' men are not above that class. Legislate as much as you like, but zamindars' *gamasthas* will not come from a different class of people. Nothing can make the raiyat educated or literary. An anecdote suggests itself to my

* Ibid, p. 173.

Digitized by srujanika@gmail.com

mind. I hope I shall not be misunderstood. When I make use of anecdotes, I do not mean to offend any one's feelings. The anecdote that suggests itself to my mind is this: A man who had never learnt to read and write saw people use glasses, and supposed them to be learned. He went to a spectacles shop. He was asked to try pair after pair, but nothing suited him, as, on looking through the glasses, he saw that printed letters were to him as meaningless as they were before. Then the shopkeeper asked him, 'do you know how to read?' The man replied, 'why should I come for glasses if I knew how to read?' So we think that, as soon as we pass a law beneficial to the tenant, he will know how to use his rights. But that is far from being the fact. I hold myself second to none in this Council in my endeavour to help the raiyat. But there is no getting out of difficulties. You may change the law, but the same defect arises. If the zamindar chooses to be oppressive, the raiyat can do nothing. I do not know anything of Bengal, but my experience in Orissa is that there are not many zamindars of that class there. There are a few, but they are exceptions, and hence it is for the Council to consider whether this amendment is desirable or not".

Clause 67*

[The following motion was, by leave of the President, withdrawn:

The Hon'ble Mr. M. S. Das to move that the words "whether tenure-holder or raiyat" be inserted after the word "*bajiaftidar*" in lines 1 and 2 of clause 67.

Clause 68†

The Hon'ble Mr. M. S. Das to move that the words "whether a tenure-holder or raiyat" be inserted after the word "*bajiaftidar*" in line 3 of clause 68].

The Hon'ble Mr. M. S. Das moved that the words "of the proprietor of an estate" be inserted after the word "holding" in line 2 of clause 87 (1).

*Ibid, p. 178.
†Ibid, p. 179.

Digitized by srujanika@gmail.com

He said:*

" I do sincerely hope that the Hon'ble Member in charge will see the reasonableness of this proposal. The clause, as it stands, only covers the case of a tenure-holder when he is making an acquisition. But there might be cases where the proprietor wants to make an acquisition, for instance the *mokadam*, does not want to acquire. There might be cases where it is not to the interest of the tenure-holder to acquire. The proprietor cannot acquire a portion of a piece of land belonging to his tenure-holder, though, could he do so, he might thereby confer a benefit on the public. Therefore, I hope that this amendment will be accepted by the Government ".

The Hon'ble MR. DAS said:

" I must say that I fail to see the reasonableness of the argument advanced by the Hon'ble Mr. Kerr. He has told us that a superior landlord should not be allowed to acquire land which he let-out to a tenure-holder during the currency of the tenure. But, as a matter of fact, we find that Government, the supreme landlord of all, acquires land which belongs to its subjects, for purposes of public utility. Suppose a road is to be constructed, and that it will run along the whole length of an estate. The tenure-holder happens to be the person whose tenure covers one-fourth of the estate. The zamindar's proposal is that the road should run along the whole length of the estate; but the Hon'ble Mr. Kerr says that this should not be allowed. But if the Government wanted it as a work of public utility, I do not think the Hon'ble Member would oppose it. I did not expect that amendments like this would be opposed. But I suppose any suggestion coming from a non-official Member must be opposed ".

[The following motions were, by leave of the President, withdrawn:

The Hon'ble Mr. M. S. Das to move that the words " and to the landlord when he is a tenure-holder or a raiyat " be added at the end of clause 17 (1).

The Hon'ble Mr. M. S. Das to move that the words " or to the tenant and such tenant's landlord, as the case may be ", be inserted after the word " tenant " in line 1 of clause 87 (2).]†

*Ibid, p. 188.
†Ibid, p. 189.

Digitized by srujanika@gmail.com

The Hon'ble Mr. M. S. Das moved that the words " member of his family or by his under-raiyat " be substituted for the word " person " in line 4 of clause 90 (1).

He said:*

" Sir, the clause, as it stands, leaves the zamindar in darkness as to the persons who may be employed for cultivating his land. All that my amendment seeks is to restrict such cultivation to the members of the raiyat's own family or to his under-raiyat. It is all right when members of a raiyat's own family cultivate the land. There is certainly, in that case, to be no dispute and no attempt to defraud each other. That is the object of my amendment, and I do not wish to take up the time of the Council any longer therewith ".

(The Hon'ble MR. DAS said:

" I am willing to recognise mortgaged land ".)

The Hon'ble Mr. M. S. DAS moved that clause 90 (2) be omitted.

He said:

" The sub-clause should be omitted, for it is practically unnecessary. If a zamindar takes forcible possession of a holding, the raiyat can always go to the Law Court. This sub-clause presupposes a state of things which is very different from the actual facts. It presupposes stringent relations between the landlord and his tenant which do not exist. It takes for granted that the zamindar is always trying to take possession of lands which belong to the raiyat and declaring them to be abandoned, and that therefore the zamindar should be called upon to serve a notice. Now, take the case when there has been a flood or famine, and the raiyats have gone away from their holdings, and the zamindar does not know whether they will return or not. In such a case, it should be quite unnecessary for the zamindar to give notice to the Collector before he takes possession of such lands. I object to this sub-clause, simply on the ground that it supposes a state of things which does not exist at all. Legislation, as we have been told, should be based upon actual experience, and not upon hypothesis ".

*Ibid, p. 190.

Digitized by srujanika@gmail.com

The Hon'ble MR. DAS said:*

" I do not see what and whose interests are safeguarded. The matter now stands thus: if the zamindar takes forcible possession of another's land, he will be guilty of trespass under the Indian Penal Code†. But if he serves a notice, then he is not liable to be prosecuted in a Court for trespass. So really you are not safe-guarding anything. While you say you are helping the raiyat, you are not helping him at all; you are keeping a loophole open. The raiyat might justly say " save me from my friends ".

[The amendment was then put and lost.

The following motions were, by leave of the President, withdrawn:

The Hon'ble Mr. M. S. Das to move that the words " from the date of publication of notice " in line 5 of clause 90 (3) be omitted.]

The Hon'ble MR. DAS said:‡

I did not intend to speak on this matter, but there has been something of incrimination and recrimination as to what Orissa Members have charged other Members with, and as to what should be the duty of Orissa Members. I must confess I did not give any particular attention to the study of this subject of common managers. When the matter was before the Select Committee, a proposal was made to incorporate in this Bill something like the encumbered estates provisions. I remember I objected to that. Then I have heard here that those people who have their estates now under a common manager wish for a change, and I have also heard people say that they would like to have the common management in the hands of the Collector. So far that statement is correct. But I don't think anybody was consulted with regard to the provisions of the Bill as they stand. The discussion now before the Council has brought out certain features — features which I noticed particularly in the speech of the Hon'ble Mr. McPherson and in the speech of the Hon'ble Member who has just resumed his seat. The Hon'ble Mr. McPherson said that he could imagine an over-energetic — or some such word — Collector and the last speaker pointed out

*i.e., Act XLV of 1860.
†Page 191.
‡Ibid, page 207. Date of discussion 23 March 1912.

Digitized by srujanika@gmail.com

what might be done by the Collector if the words "of his own motion" were left in the clause. These are matters in which I don't think the zamindars or persons who wish for the change were consulted. At any rate the discussion of this provision in the Bill has brought to light certain dangers. Hon'ble Members of the Council who have experience, more experience than I have, in connection with the working of this provision, have pointed out these dangers. Though I am not in a position to speak from personal experience, I may say this much that we, Orissa Members, are not prepared to oppose any reasonable amendment. All that we say is that any opinion formed by us is not to be adhered to as persistently as is often done by an Hon'ble Member in charge of a Bill. Of course, Sir, we have been yoked with the senior partner to whom the Hon'ble Member, Mr. McPherson has referred; in taking a partner for life, one has to consult the wishes of such partner very often before one begins to live in the same house with him or her. Secondly, of course, the experience of the Bengali and Bihari Members is not to be thrown away or slighted by the Orissa Members.

I really regret that I cannot offer any observation based on my personal experience, nor can I claim to have given any particular attention to this subject. I cannot, therefore, express an opinion on the amendment either way.

The Hon'ble MR. DAS said:*

"I find that, in this case, the Orissa zamindar has been made to take the position of our old friend, the raiyat. He is not here himself, and therefore people evidently imagine that everybody has a right to represent him and to say what the Orissa zamindar wants and what the Orissa zamindar does not want. There is, on my left, the hon'ble gentleman† who represents the landlords of Orissa and Chota Nagpur, and we have just heard what he had to say on this amendment.

"Orissa is backward no doubt, but that does not mean certainly that the people of Orissa are anxious to be divested of what are their lawful rights. I dare say they have been divested and robbed of their rights under the colour of legislation and sometimes under the colour of settlement procedures. I am glad to hear

*Ibid, page 224.
†The Hon'ble Raja Rajendra Narayan Bhanja Deo.

Digitized by srujanika@gmail.com

that, in this Council, persons other than Orissa Members have used the word 'revolutionary', and that the work done in connection with this Bill has necessitated the use of that word. I have tried my best to impress on some responsible people the difference between taking away vested rights and preventing the acquisition of fresh rights by legislation, but I do not see that my attempts have been successful. I find in one of the papers — paper No. 6, which relates to this Bill — a letter, on page 9, addressed from the Hon'ble Babu Janaki Nath Bose, described as Vice-President of the Landholders' Association. I know that the Hon'ble Member is not the Vice-President of the Landholders' Association, and he does not represent any landholders' association here".

The Hon'ble MR. DAS, continuing, said:

"I apologise to the Hon'ble Member. I was, as he surmises, led away by the similarity of the two names.

"The present clause 103 seems to take away from the zamindars the power of transfer and mortgage which they exercised under the control of the District Judge. The withdrawal of this right will be prejudicial to the co-owner. I should like to know who has taken the trouble to take the views of the Orissa landlords on this subject? To me it seems to be a preposterous idea. One man has been living an extravagant life, and another man, his co-owner, may be living thrifty life; but, because the extravagant man feels the necessity of having a common manager and his estate managed by a Collector, must the thirfty man, who can manage his estate well, be saddled with the pay of a common manager for the only reason that his neighbour is an extravagant man? Is he to undergo all that inconvenience because his neighbour is extravagant? This is really visiting the sin of one's neighbour on one's self. Neither moral nor legislative philosophy will sanction this"*.

The Hon'ble Mr. M. S. Das moved that Chapter XA be omitted.

He said:†

"Sir, when the Revenue Settlement of Orissa was made between the years 1890 and 1900 the records prepared during that period

*In the actual debate, the Hon. Mr. Das read during this speech, a portion of the opinion on the bill submitted to the Government by the Orissa Landholders' Association, but no reference thereto is to be found in the original proof of his speech. (See the speech of Mr. McPherson on the next page.)

†Proceedings, op. cit., p. 231.

Digitized by srujanika@gmail.com

showed that some portions of land were set apart for certain communal purposes and in the *kabuliyat* executed by the zamindar it was stipulated that he should be considered responsible for reserving those lands for communal purposes. It is not necessary for me to go into the details of the different purposes for which these lands had been set apart, but they were generally of this nature — grazing ground, cremation ground and reserve tanks — the importance and necessity of which are felt and admitted by all. In moving this amendment I should mention here, first of all, Sir, that it is not my intention to say those lands which have been entered in the *kabuliyat* should be excluded, or that any portion of them should be excluded. Of course there was a contract between Government and the zamindars in respect of those lands, and that contract was put down in writing in the *kabuliyat*. The zamindar was responsible, and under certain circumstances the Collector could take action to prevent any infraction of the terms of the *kabuliyat*. After the revenue settlement, Sir, came the revision settlement, the object of which I do not understand, I must confess. Whether the settlement officers were made to correct the records having reference to the changes which property had undergone between the date of the last record and the date when this revenue settlement record was prepared, or whether they were to correct certain entries which were erroneous, or whether they were to do both I don't know, but I suppose that, for the purposes of my argument, I should say that the records deal with both objects. Now, during this revision settlement, Sir, some of the lands over and above what had been entered in the *kabuliyat* as ' public grounds ', if I may be pardoned for using such an expression, were entered in the records. The question is whether such an entry should really come within the province of the revision settlement work. Revision settlement work, to me, ought to mean a revision which is necessary on account of changes which have come about in rights in property between the last record (made during the revenue settlement) and the date of the subsequent record made on the spot. Consequently, if the revision settlement officer undertook to make an entry about communal lands in the revision settlement records, *prima facie* it would show this, that at the time of the revenue settlement they were not ' public grounds ', i.e. communal lands; i.e. they were not used at the time of the revenue settlement for those purposes, but must have come into

Digitized by srujanika@gmail.com

such use during the interval between the revenue and the revision settlement. Now the difference between 1900 and 1906 was six years. Thus, supposing that during these six years there was some change, some lands which were not actually communal lands at the time of the revenue settlement might have been found to be used for the purposes of the community at the time of the revision settlement. The question would naturally suggest itself, was the use of such a character as to be recognized as an easement, understanding by that term all that every lawyer understands? There was an interval of six years, and even if we suppose that from the day that the revenue settlement officer left the village to the day when the revision settlement officer visited the village again this land was used for public purposes, will that make it an easement? It may be that it had been used for communal purposes only for three weeks, or only for three months before the time when it was an easement? It may be that it had been used for communal purposes only for three weeks, or only for three months before the time when it was recorded by the revision settlement officer. Who were the persons who recorded all this? Amins. I particularly refer to the Hon'ble Member* who will be on the Bench of the High Court a few days hence, and ask him whether the determination of questions of easement can be left to amins on Rs. 10 or Rs. 12, and whether the Hon'ble Member will carry such an idea to the High Court Bench. But these are the people who are entrusted with this work, and what is the result? I have actually a specific case where a chaukidar on his nightly visits used to sit down under a tree occasionally, and the amin went and said, 'This is *sarbasadharan* land in public possession' — because the chaukidar used to sit there every night! Where he finds one morning some cattle going into a tank for the purpose of drinking water — the cattle might have got there by trespassing — the amin goes and says, 'well, the cattle get water here, so it is *sarbasadharan*, used for cattle drinking'. What has been the result, Sir? The result is this: I got a telegram yesterday saying that in one case the Secretary of the Orissa Association had to go into Court, and the Court set aside this record; but look at the expense! And I may tell you, Sir, that before I left for this place — that was only on the 18th March, I saw actually notices issued on behalf of three thousand men in the district of Puri — printed notices — in the hands of a pleader, to be sent

*Hon'ble Mr. Chapman.

Digitized by srujanika@gmail.com

to the Collector for civil suits in respect of *sarbasadharan* entries. That is in one district. Really this is revolution; for pardon me, Sir, you are making over the right of inquiry into rights of a most complicated nature to amins on Rs. 10 and Rs. 15. I beg to inquire whether an amin understands what an easement is. He understands very well what it is to lie down at ease and to make an easy life of it, but whether he understands what easement means is a very different matter. An easement is only the right to use a property, which might belong to another person, in a certain way. Unless the property be in another person, there cannot be an easement. I am willing to pay one thousand rupees if anyone will produce an amin before me who will tell me that easement means that the property must be in another person, so that you may have an easement over it. Well, Sir, what will be the social result of this change? The social result will be that the zamindar will not allow any land to be used by the community. He will keep a tight hand and say. 'Here my rights are to be invaded in a most arbitrary manner, and I shall not allow you to use anything'. And that certainly would not tend to a happy state of things. And then, Sir, are we to legislate here on speculative lines, leaving the people to determine the right law in the civil courts? Legislation which depends upon remedial effects to be produced hereafter by Civil Court decisions does not deserve the name of legislation. The people have a right to say that we want the legislature to think over the matter and to pass the law so that we might be saved the ruinous costs of litigation; but here, seemingly the legislature says, 'We need not stop to enquire what the result of this will be upon the people, or to what length this will prolong litigation; we will pass the Bill — we have no time to look into these things. There is the 1st of April coming, and we must pass this'. Therefore, I say, what is the result? I have told you that there are three thousand men going to the Civil Court in one district; another telegram I received yesterday said (this was from Cuttack), 'My clients have given notice to the Secretary of State that they will bring such suits'. Now what is all this? Are we going to be ruined by litigation? It is said, Sir, very often, that it is this pernicious class of pleaders who multiply litigation. Well, amins do not make any bargains with pleaders.

"Then, Sir, I find this was one of the clauses with reference to which I said that the Hon'ble Mr. McPherson has been ran-

Digitized by srujanika@gmail.com

sacking all parts of India and putting on the back of the poor Uriya whatever he finds — anything likely to give a bend to his back, as though he were to say, ' you are a very turbulent people, you must have the worst laws; it is difficult to manage you. Bengal can be managed; Bihar can be managed; but you people cannot be managed, and so you must have laws from all parts of the world '. It is certainly unlucky that he has not imported anything from the Andamans; he brings things only from Madras ! What does the Madras Act say ? The Hon'ble Member does not look into the circumstances in which an Act of this nature was justifiable in Madras; he reminds me of some of my countrymen who imitate certain things because they are English, without knowing that they are not at all suited to the conditions of this country. You often find some of my countrymen cutting the tails of their horses because Englishmen in England do it; they forget that there are no flies or mosquitoes in England. The poor animal wants his tail here to drive away mosquitoes.

" In Madras, Sir, when the settlement was made, Government put aside some land as common land, and therefore, when the Act was passed, Government had every right to say, ' Well, no assessment was made on these lands, they were exempted from the assessment of revenue, they were our lands, and you, zamindars, have no right to these lands, and consequently they must be set apart now for communal purposes '. But here, what is the state of things in Orissa ? You have assessed every bit of land and you have included it in your *kabuliyat*, only exempting such portion as is particularly mentioned in the *kabuliyat*, and now you say you have a right to decide as to what is communal land. I do strongly object to Government saying what is communal and what is not communal. Government would be perfectly justified in making a contract with the zamindar and asking the zamindar for such land, and if the zamindars were asked, I am sure, in 95 per cent of cases, they would say, ' Very good, take this piece of land which has been used for communal purposes '. But that is one way of doing things, and there is the other way of assuming that Government have a right to it. If you want to help the community, the best thing would be for somebody, not an amin, to go and inquire which land should be set aside and for what purpose. What do the villagers say ? The villagers have been using the land. Your right is based on the present use of the land. There has been no quarrel, no dispute about

Digitized by srujanika@gmail.com

the land, and the people are living in a happy state of contentment. Is it not desirable, Sir, that a particular inquiry should be made on the spot and something recorded which would cause no disturbance of the peace hereafter?

"The Madras Act says this: I am reading from section 20 of the Madras Estates Land Act:*

> 'Threshing floors, cattle stands, village sites and other lands situated in any estate, which are set apart for the common use of the villagers, shall not be assigned or used for any other purpose without the written order of the District Collector, subject to such rules as the Local Government may make in this behalf!

"'It may be desirable'— I am reading from a speech by the Hon'ble Mr. Forbes when this Act was introduced — 'that I should explain in a few words what is the position of Government with reference to this matter. The position that the Government take in this matter is that the village communal lands, which were in existence at the time of the permanent settlement, were not included in the permanent settlement as being lands exempt from land revenue at the time'.

"Well, there lies the difference, and it is an essential difference that makes all the difference between the two cases.

"Again, clause 103A reads:

> 'When in the *sarbasadharan* portion of a record-of-rights, prepared and finally published under Chapter XI, or under any other law for the time being in force, an entry has been made that any land has been set apart for the common use of the community, or for the exercise of certain rights by the community, such land shall not, without the written order of the Collector of the district, be assigned or used for any purpose which interferes with the purpose for which it was set apart'.

"A common man must turn out within six months. The common man is generally a *bajiaftidar*, and the Hon'ble Mr. McPherson has told us what his position is. Perhaps his annual income is Rs. 22-8, but he still enjoys the respectability of a zamindar, though he might come to Calcutta and work as a coolie

*Mad. Act I of 1908.

Digitized by srujanika@gmail.com

here. This man has got some land, and this land is taken away by the Collector for public purposes. The Legislature is very kind when it allows as much as 30 years to the Collector in which to take such action, and only six months to this poor man. I should be the last person to say that the reservation of communal rights should not be made, for their reservation is recommended by all classes of people. But about these communal rights — we must inquire what rights have been enjoyed. Suppose there is a piece of land which has never been used for communal purposes. A man has his own house on it and has lived there for 30 years, but at the end of that period the Collector says you must give up the land. But how can he remove from there within six months? Suppose a piece of land is set apart for certain purposes. Afterwards it is found that there was a tank there which was filled up. The zamindar says, 'Let us dig another tank here which we will use afterwards for public purposes'. All are agreed to that. Nobody makes any complaint. But even here the Collector has got the power to interfere. I do not say that in no instances Government interference should not be introduced. But I do say that, in a matter like this, an attempt should first of all be made to inquire into the true state of things.

"We must remember, Sir, that this Council is on the eve of its dissolution. The Hon'ble Mr. McPherson has told us that this Bill is the parting gift of Bengal to Orissa. But what is he going to make a parting gift of? A number of law suits? Will this Government undertake to pay all the costs of litigation in the new province? You legislate here without inquiring into the state of things which you have brought about during the revenue settlement operations. You say a system must be introduced in Orissa, because it exists in Bengal or in Madras. I am in a position to say that three thousand men are going to use — I saw the notices, printed notices — and I am sure that by this time they are in the hands of the Collector of Puri. Think of the idea of thousands of men going in for litigation. The Hon'ble Mr. Maddox has seen enough of Uriya life. I may not be a friend of the Uriyas, but he claims to be. Now, is it right, is it at all desirable, is it in the interests of society, is it in the interests of the good name of this Council that this measure should be passed at once? Why not leave it to the other Council? Are we on the eve of a revolution that legislation of this kind should be passed at once?"

Digitized by srujanika@gmail.com

The Hon'ble MR. DAS said:*

"Sir, the Hon'ble Mr. Maddox says that I did not speak intelligently enough, or rather I was not intelligible enough to him. This is the misfortune we Indian Members suffer from talking in a foreign tongue. All that I can say is that I have done my best always to make myself understood. The question is not who supervises these entries. Am I to understand that a responsible officer actually goes to the spot and sees, day after day, for which purpose a particular land is used and, on firsthand information thus gathered, defines the kind of easement which the public have acquired in it; or am I to understand that the amin reports a piece of land to be *sarbasadharan* and it is then recorded as such? The fact is that *sarbasadharan* record is made without defining the kind of easement. *Sarbasadharan* means that the property belongs to the public, and that very fact will create great confusion; for, as the Hon'ble Mr. Cumming has said, what is everybody's property is nobody's property. Therefore, I say, what everybody claims to be his right is really nobody's right at all. One man says that he will graze his cattle here; another says that he will use it as a park, because it is *sarbasadharan*. We must really define the word, or it will lead to confusion. Everything will depend on the interpretation of the word given by the responsible officer in charge of the work. Something is considered as *sarbasadharan*, say, in a portion of a zamindari. Surely one zamindar's consent is not enough. Suppose there are four co-sharers in the zamindari. One of them, to spite the others, declares that a portion belonging to another co-sharer is *sarbasadharan*. Will that be recorded as such? I mention this as something that might happen, and this will lead to confusion and disputes. I have seen, I said, notices to a Collector ready to be delivered and printed, with envelopes addressed, on behalf of three thousand men. Am I to understand that these three thousand men are rushing to the ruinous expense of litigation without any grievance at all, and is not a change of this nature entitled to the consideration of the Council? Yesterday, I received a telegram from a man in which he says, 'I got an entry removed and altered by the Civil Court, and I have given notice with regard to another entry'. I have, Sir, given a typical instance: A chaukidar sits under the tree at night, sometimes

*Ibid, p. 237.

Digitized by srujanika@gmail.com

in his nightly rounds, and the amin comes and says, 'this is *sarbasadharan*'. These people have no idea of the facts. The point is that you entrust this duty to these unsuitable classes of people. I should only repeat that, when you are recording what is communal land, care should be taken not to have this work done by the amins, I have not the slightest objection to a man being put in jail for six months for trespass on communal land, and I should be the last man to sympathize with him; but it would not be fair nor wise to record as such lands which are not really communal. On these grounds, I think that this amendment should be accepted".

(The motion was then put and lost.)

CLAUSE 103A

The Hon'ble MR. M. S. DAS moved that the following be substituted for clause 103A, namely:

"103A. When in the *sarbasadharan* portion of a record-of-right of a village, prepared and finally published under Chapter XI, or under any other law for the time being in force any entry has been made setting apart land with the consent of the proprietor for the common use of the community or for the exercise of certain defined rights by the community or land which the proprietor has in the course of a settlement of land revenue engaged by the terms of the *kabuliyat* executed by him to preserve as grazing grounds, cremation grounds and reserved tanks, such land shall be placed under the control of a panchayat appointed by the Collector for the purposes of this chapter, and it shall be the duty of such panchayat to see that the said land is not used for any purpose which interferes with the purpose for which it was set apart".

Encroachment of communal lands.

He said:

"I do not intend to go over the same grounds again. All that I wish to say is what the Royal Commission on Decentralization

Digitized by srujanika@gmail.com

stated in their report. I find that the Royal Commission on Decentralization recommended that the panchayat system should be introduced. Of course, it may be found true that we have no such men of public spirit here, as the Hon'ble Mr. Maddox and the Hon'ble Mr. McPherson say. That may be true. In the absence of such spirit or interest, I think it should be the duty of Government to encourage and stimulate the development of the spirit by giving our people a chance. There is very little to be done in connection with this proposal. Panchayats have got great powers, and it is in the contemplation of Government to give them more powers and a much more responsible position. In every village, I suppose, that the Hon'ble Mr. McPherson and the Hon'ble Mr. Maddox have come across, there is a hut called *bhagabatghar*. It belongs to everybody. Everybody meets there in the evening, and it is a sort of village club. But what does the amin generally do when he comes? He wants to record it as *sarbasadharan*. But it is really a small hut built by the zamindar or some respectable person of the village, and all enjoy the privilege of meeting there in the evening. You cannot call that communal. As regards the infringement of the right, who can be the best judges? I suppose the panchayat or the people who live in the village. The appointment of the panchayat should be left in the hands of the Collector. At any rate, even if they are at all likely to neglect their duty, I am sure they will not sleep for 30 years during which at least ten Collectors will have come and gone. In a much shorter time they would find out that there has been an infringement of the rights of the people. The difficulty is that competent people cannot be found to undertake this duty, but the fact also is that the people do not understand what rights they have. But directly the panchayat is appointed the matter would be discussed in the village and people would begin to understand such rights. Everybody will understand, 'I have got a right to these lands. I have a right to take water from that place', and so on, and this will develop the right idea of the easement of the community over lands and other places. At present they say: 'I have been grazing cattle on this land simply because the zamindar permits it'. But if this panchayat system were introduced the raiyat would understand that he has got a right to do so. Now it has been admitted, I gather, from the reports and letters which the settlement offi-

Digitized by srujanika@gmail.com

cers have placed before the Council that with the revisional settlement the riayat has understood his rights. So, let not the initiative be left to the Collector, because the Collector will not be at the place for 30 years but the panchayats will. For this reason the initiative should be left in the hands of the panchayat, and nobody would be better able to judge of these matters than the panchayat. I may read another extract (paragraph 20, page 669 of the Decentralization Commission's report): 'It is most desirable to constitute and develop village panchayats for the administration of certain local affairs within the villages. This system must, however, be gradually and carefully worked. The headman of the village, where one is recognized, should be *ex-officio* chairman of the panchayat, and other members should be obtained by a system of informal election by the villagers'. So it is really the idea of Government, I suppose, to develop a spirit of local self-government; and not only that, but to develop a sense of responsibility in the people, and this is certainly a thing which any civilized Government should be proud of. I think, for these reasons, that the rights of people should be entrusted to some people in the village who would be the best persons in whose hands these rights may be safely left".

The Hon'ble MR. DAS said:*

"Sir, I am sorry I could not follow the Hon'ble Mr. Cumming, but, so far as I understand, he thinks this would be taking away the rights of the zamindars. I do not know if there is anything like that in my proposal. I will not, however, make any further remark than this, that the right which belongs to the public, whatever be the nature of that easement, should be left and entrusted to the panchayat; and what is entrusted to the panchayat would be nothing more or nothing less than what the Collector would be entrusted with under this clause. I do not mean to say that the zamindars should be deprived of the proprietary rights. However, if there is any defect in the wording of my amendment, I am quite willing to leave it in the hands of the Hon'ble Member in charge or of our Secretary to be corrected. I think the amendment ought to be accepted".

(The motion was then put and lost.)

*Ibid, p. 239.

Digitized by srujanika@gmail.com

Clause 103B

If motion No. 214 be not carried, the Hon'ble Mr. M. S. Das to move that the following be substituted for the first paragraph of clause 103B, namely:

"If, on the complaint of any member, made with the consent of the majority of the members of such panchayat, it is proved to the satisfaction of the Collector that any person occupies any land referred to in section 103A, for any purpose which interferes with the purpose for which such land was set apart...."*

The Hon'ble Mr. M. S. Das moved that the following be added as an explanation to clause 103B, namely:

"*Explanation* — The planting of trees and the growth of fodder on land reserved for grazing shall not be doomed to be interference with the purpose for which such land was set apart".

He said:

"Sir, my humble labours during the last two days' discussion have convinced me that I have been trying to strike blood out of a piece of genuine granite from the rocks of Scotland. I would simply ask the Hon'ble Member in charge whether he is prepared to accept my amendment".

The Hon'ble Mr. Das said:†

"I thank the Hon'ble Member, and accept the concession now made with pleasure".

The motion was put in the altered form and agreed to.

The following motion was, by leave of the President, withdrawn:

The Hon'ble Mr. M. S. Das moved that the word "one year" be substituted for the word "six months" in line 3 of clause 103F.

He said:

"Sir, I would ask the Hon'ble Member whether, having regard to the circumstaces of the case, it would not be reasonable to

*Ibid, p. 240.
†Ibid, p. 241.

Digitized by srujanika@gmail.com

give one year's time to a man instead of six months, and I hope the Hon'ble Member will accept my amendment ".

The Hon'ble MR. DAS said:

" I will then withdraw this amendment ".

(The motion was then, by leave of the President, withdrawn.)

[The following motions were, by leave of the President, withdrawn:

CLAUSE 105

The Hon'ble Mr. M. S. Das to move that the words " *bajiaftidar* tenure-holder, *bajiaftidar* raiyat ", be substituted for the word " *bajiaftidar* " in line 2 of clause 105 (b)].

CLAUSE 109

The Hon'ble Mr. M. S. Das moved that the words " but the previous entry shall be admissible as evidence of the facts existing at the time such entry was made " in lines 4 to 6 of proviso to clause 109(3) be omitted.

He said:

" Sir, I think the previous entry would be evidence of the facts existing at the time. The idea was, I imagined, that each entry should be evidence till it was replaced by another ".

(The motion was then, by leave of the President withdrawn.)

CLAUSE XII

The motion to omit this chapter, of which several Members had given identical notice, was next taken into consideration. In the ordinary course, the motion would have been moved by the Hon'ble Sir Bijay Chand Mahtab, Maharajadhiraja Bahadur of Burdwan, since his name stood first in the Amendment List, Annexure A; but, at his request, the President allowed the Hon'ble Mr. Das to move the amendment, and he moved it accordingly:

The Hon'ble Mr. M. S. Das to move that Chapter XII be omitted.

Digitized by srujanika@gmail.com

The Hon'ble MR. DAS said:

"Sir, on more than one occasion from my seat in this reformed Council and in the old Council, have I expressed the opinion that the principal duty of a non-official Member of this Council is to communicate to the Government the views and wishes of the people and to interpret the views of Government to the people. This is by no means an insignificant duty in a country where, by reason of difference in creed, colour, civilization, and in fact everything which goes to make up a nation's life, there is a gulf between the rulers and the ruled.

"As regards the first part of my duty, I beg to draw the attention of Government to the fact that out of the five non-official Members who served in the Select Committee, four have recommended the deletion of this chapter. The only Hon'ble Member who has not written a note of dissent is a gentleman from Bihar — the Hon'ble Saiyid Zahirrud-din. I beg permission of the Hon'ble Mr. McPherson to borrow his felicitous language in referring to this gentlemen: 'It is difficult to understand what was the cause of the lively interest in the Bill taken by him. If I may be allowed to use a homely phrase, the official Members, numbering seven, all of whom, except one, were connected with the settlement work in Orissa, were old enough to take care of themselves'. If veteran settlement officials, supported by the Legal Remembrancer and an expert especially nominated for the occasion, stand in need of succour from a gentleman from Bihar, surely the two Orissa Members — the one an old man with one foot in the grave and the other, however worthy of the responsibilities of his seat here the youngest Member in this Council — ought to be pardoned for their gratitude for any help which is offered to them from Bihar or Bengal in an unequal fight with an illustrious galaxy of officials with the Hon'ble Mr. McPherson as their leader.

"There was a meeting in Cuttack on the 17th March. This was a meeting of raiyats convened by me to know their views and wishes on Chapter XII. It was attended by over three thousand raiyats, some of whom had come from villages 2 miles away. The meeting was attended by about five thousand men. The unique feature of this meeting was that scores of raiyats spoke at it. Some of them were pictures of indigence and poverty. They gave unanimous expression to their feelings and opinions. They do not want this maintenance of records. The two settlements

Digitized by srujanika@gmail.com

have impoverished them while in operation. The arbitrary and incorrect records made have resulted in civil suits which are still pending. Like the mosquito which sucks blood, and, when it has drunk its fill, injects a poison which produces irritation, the settlement amin left behind him the germs of civil suits.

"The raiyats in one voice said: 'if the amin comes again to our village we shall leave our house and hearth and migrate to distant lands where we may have rest'. I know this fact was communicated to His Honour by telegram. I invited the Commissioner and the Collector to this meeting so that they might hear what the raiyats had to say on this subject. They did not attend the meeting. I believe this was not necessary, for they know that no one, except a few men to whom the settlement would provide employment, recommends this maintenance of records.

"The zamindars, the raiyats and the educated public do not want Chapter XII. So much for non-official opinion.

"Let us turn to official opinion. The District and Sessions Judge writes: 'If the maintenance operations could be carried through by superior and trusted officers, all would be well; it is the low-paid amin, the official who comes into the closest contact with the people, who is the source of trouble. Going from village to village, he assumes a most important position in the eyes of the villagers, and, as general arbiter of their fate, has to be placated accordingly. Complaint is made that the amins are apt to foment land disputes by pointing out small divergencies from the map which would otherwise pass unnoticed. It is suggested that the raiyats would welcome the maintenance of the land records; I would rather say that, at the most, they are quite indifferent about the subject. The landlords are, of course, opposed to it, owing to the expense and trouble it entails. They long for a rest, and I am sure the rest would be acceptable to the raiyats also'.

"Yes. During the revision and revenue settlement operations, the amin has opened the vital parts of the poor raiyat, and he is in sore need of rest for the healing of the wound.

"I have recently asked the Government to lay on the table letter No. 2151B, dated the 23rd November 1911, from the Commissioner of Orissa to the Board of Revenue, and a letter written

Digitized by srujanika@gmail.com

by the Hon'ble Mr. McPherson to the Board of Revenue on the subject of the maintenance of records. Both these letters are referred to in papers circulated to Hon'ble Members of this Council. My application has, in accordance with the rules relating to official correspondence, been disallowed. I also asked whether Government would examine officials as witnesses under the Bengal Legislative Councils Witnesses Act* of 1866, with a view to ascertaining their opinion on Chapter XII. This request was also disallowed, but I have reason to believe that, among the Hon'ble Members (I mean official Members) of this Council, there are gentlemen whose evidence on oath, coupled with the letters referred to above, if produced, would have established the proposition that Chapter XII should be deleted.

"The Hon'ble Babu Janaki Nath Bose, who was appointed by nomination as an expert for the purposes of the Bill, has recorded his opinion that this chapter should be deleted. When I moved that this Council should not proceed any further with this Bill my motion was opposed on the following grounds:

'that this Council has in it a large number of Members, official and non-official, who are intimately acquainted with Orissa and have special interests in Orissa'.

"The question of the maintenance of records was under the consideration of Government just before the end of the last century, and there must have been a great deal of correspondence in which I have reason to believe the Hon'ble Mr. Maddox took part.

"Will the Hon'ble Member in charge of the Bill lay before the Council all letters and reports written by the Hon'ble Mr. Maddox on this subject? If my request meets with the fate with which my application for the Hon'ble Mr. Levinge's letter met, I should be justified in inferring, under the ordinary rules of the law of evidence, that the production of these documents will go against the present decision of Government to make this Chapter law. I am justified in presuming that the Hon'ble Member in charge of the Bill and the Hon'ble Member who was the Settlement Officer of Orissa are not in favour of this chapter.

"The other ground on which my motion for postponement was opposed was that we have in this Council Hon'ble Members who have special interests in Orissa. As we all know, the Hon'ble

*i.e., Ben. Act III of 1866.

Digitized by srujanika@gmail.com

Maharajadhiraja Bahadur of Burdwan and the Hon'ble Babu Hrishikesh Laha own estates in Orissa. Both these Hon'ble Members desire the deletion of this chapter.

"I said at the outset that it was my duty to interpret to the people of Orissa the policy and views of Government. When Chapter XII is passed into law, as I fear is the intention of Government, the Orissa public will naturally remark that Government declined to postpone the consideration of the Bill because they had in the present Council official and non-official Members who had special knowledge of, and special interest in, Orissa; how is it, then, that they have gone against the views of those Hon'ble Members and their own trusted officials?

"Will the Government be pleased to omit this chapter from the Act, leaving the question of maintenance to the new Government? The Bill has been so drafted that this omission will not affect the rest of it except a few verbal alterations which the Council may safely leave to their indefatigable and worthy Secretary, Mr. Watson.

"Sir, the question of maintenance has been under the consideration of this Government for several years. Successive Lieutenant-Governors have taken up the question but, owing to the complex nature of the issues involved in it, did not bring it before the Council. It is a serious measure, affecting the interests of millions. In its present form it is opposed by the masses. The consequences of a legislative measure which affects the masses, when persisted in against their reasonable objections, seriously affects peace and order, which it should be the first aim of Government to secure. In a measure like this the responsibilities of legislation and administration should be combined in one Government. Divided responsibility is inequitable if not iniquitous. In the division of responsibility under such circumstances the responsibility of legislation becomes an utter absence of responsibility: when disastrous consequences result from the administration of the law. Is this Council prepared to run the risk? Is it necessary to do so? Is it necessary that this Council, oblivious of its past history which shows anxious deliberation of measures to allay unrest in Bengal, should at the close of its existence — after even the Hon'ble Members have been photographed, in token of their early disappearance from the sphere of politics — bequeath to a new Government the seed of unrest?

Digitized by srujanika@gmail.com

"Sir, His Gracious Majesty the King-Emperor, in his anxiety to secure the well-being of his subjects, ordained that Bengal, where there was unrest, should be separated from Bihar and Orissa, where unrest is hitherto unknown. Are we showing due regard to the wishes of His Majesty when we make over to the new Government a legislative measure containing the germs of unrest? In the name of the millions of Orissa, where you have spent a great portion of your public life, I entreat and beseech Your Honour to postpone the enactment of Chapter XII. I entreat Your Honour, in the name of those millions of poor Uriya raiyats whom Your Honour has so solicitously regarded during your long period of service in Orissa; I entreat Your Honour in the name of those poor people, who have been actually impoverished by the itching palm of the amin, to omit this chapter, and not only that; in the name of history I entreat Your Honour; in the name of the anxiety which this Council experienced when the unrest in Bengal was uppermost in its mind, I entreat you to consider well whether a measure like this, the responsibility of the administration of which does not lie upon this Government, should be passed at this stage of the life of this Council. And, Sir, may I lastly appeal to Your Honour that where there is peace, where there is order, let us not make over a thing which at least may give rise to unrest hereafter? So that, Sir, when this Act does come in, when this chapter is introduced, should there be any unrest, should there be any sufferings amongst the poor masses should the operation of this law increase the sufferings of the poor masses, it may not be said that this Act was passed during the last days of a Government which knew that it would not have the responsibility of administering it, and consequently, shirked its share of the responsibility therefore. On these grounds, Sir, I specially appeal to Hon'ble Members, whether official or non-official; when you have the interests of millions in your charge, stop to consider whether this measure is necessary. Lastly, I wish to bring to the notice of Hon'ble Members that several schemes with regard to the maintenance of records have been put forward before Government; this is one of the schemes. An experiment has been and is being made in Orissa; the result of that experiment in not very satisfactory, at least it is not satisfactory to the raiyat. It is not, however, the only possible scheme for a maintenance of records. It may be that this matter has been pending before Government for a long time; but certainly, before it takes shape, before it is

Digitized by srujanika@gmail.com

finally forged on the anvil of legislation, it ought to receive more consideration, much more consideration, at the hands of the Government which will be charged with the responsibility of putting the law into practice which will be charged with the responsibility of its administration ".

The Hon'ble MR. DAS said:*

" Sir, I will begin where the Hon'ble Member in charge ended, I am really surprised to know that our giving expression to our opinion on a matter like this should be considered as mere obstructiveness by Government. And it is on this ground that I am asked to withdraw my motion on this chapter. All that the Hon'ble Member has told us is that, at the present time, the Government is in an indecisive state of mind; it does not know what agency is to be employed in carrying out the experiment. It does not know what the result of that experiment will be in Orissa. The whole thing is in a nebulous state, if I may say so. There is also no knowing what the decision of the Government of India will be as to the details. And yet, when it comes to my amendment, I am asked to withdraw my amendment. Why, if anybody is to withdraw, it is the Government. The officials do not know what they are going to do. They do not know what agency they are going to employ. They do not know what will be the result of the experiment. They do not know at what intervals the operations are to be introduced. And yet we are told that, before this Council breaks up, this Bill must be passed into law. What does it mean ? — Pass a thing which is purely abstract, which may not be fit for anything, make it over to another Government, and let that Government work it as it likes. That, Sir, is really the position which I gather from the statement of the Hon'ble Member in charge.

" He has told us that he has visited places where he found something ' super ' — I do not remember the exact wording — but it was something ' super '. Well, Sir, I do not know whether there is anything ' super ' in the ministerial staff of the Revenue Survey office. He has also told us that he found the raiyat contented. I do not of course say that everybody is discontented. The Hon'ble Mr. McPherson also noticed the twinkle in the raiyat's eye concerning the recorder's attempt to take money. I

*Ibid, p. 253.

Digitized by srujanika@gmail.com

know a great deal more of the meaning of that twinkle than he does. It meant plainly, 'what do you see; can you see anything?'

I do not know what the Hon'ble Member in charge means by his reference to my mass meeting. He asks the Council not to take any notice of such meetings. They did not have hot cakes at that meeting, but I certainly wrote, when convening the meeting, that those who were very poor and who could not afford to pay their railway fare and had to come from a long distance would be provided with the cost of their journey. And, I think, I was quite right. It would have been quite unreasonable to expect raiyats to come from a long distance at three days' notice. It is all very well for Government officials to order the raiyats to come and run about without the least thought as to their convenience. But I thought it my duty to provide them with their costs. Sir, I do not like to take up the time of the Council any more. The Hon'ble Mr. Kerr has told us that the procedure adopted in this chapter is not as long as it is in the other chapter, and that this 'maintenance' will be a very short thing — a very short operation. But I say the danger lies in the very shortness of it. It gives greater opportunity to the recorder to make incorrect entries, and these incorrect entries go undetected. It is not right to make short work of a thing when other people's rights are concerned. We have had a graphic description from the Hon'ble Mr. Kerr of the man with an ink-pot in one hand and a pen in the other, going about the villages and making entries. If we had a man with a due sense of responsibility it would be all right. It is the better position and character of this man, and a greater sense of responsibility on his part that we want. Government thinks that such men can be had in plenty, as if it were the easiest thing in the world to get a man of character on a low pay. How much does Government propose to pay for the sense of responsibility of these men? As I have said, and as Mr. Judge Adami has also said, it is the man of character and position that is wanted. If the Hon'ble Mr. McPherson would accompany me to a village — it may be any village in the district of Cuttack — and take the people unawares as it were, without giving any notice, I could show him a state of things which is anything but desirable. It would not require hot cakes to gather together about 10 or 20 thousand Uriyas in Calcutta — in the grounds of Belvedere, if the Hon'ble member so likes.

Digitized by srujanika@gmail.com

And I would ask Mr. McPherson to question them as to what would be their condition under this chapter. Are we to encourage amins and touts ? If we are, it is the ignorant raiyat who will suffer. I may not be a friend of the Uriyas, but I will ask Mr. McPherson to go and ask the poor Uriya raiyat whether he likes these maintenance provisions. But he must be told plainly what they are, for it would not be fair to prey on his credulity begotten of ignorance. If I withdraw my amendment, I would not be the friend of Orissa, as I consider myself to be. I ask that the question be put ".

CLAUSE 144

This amendment was set out in Annexure A to the list of business in the following form: " If motion No. 229 be not carried, the Hon'ble Mr. M. S. Das to move that the words ' be liable to pay a fine not exceeding fifty rupees, and, for further disobedience, shall be subject to the penalties provided by Chapter X of the Indian Penal Code ' be substituted for the words ' be subject to the penalties provided by Chapter X of the Indian Penal Code ' in lines 3 and 4 of clause 144 (3) ".

The Hon'ble MR. M. S. DAS said:

" Sir, may I be permitted to modify the above amendment ? At the suggestion of the Hon'ble Member in charge of the Bill, I propose that, after the words ' for disobedience thereof ' in line 3 of clause 144 (3), the following words be inserted, viz., ' be punishable with fine which may extend to Rs. 50, and shall, in the event of subsequent disobedience ', etc."

CLAUSE 151

If motion No. 229 be not carried, the Hon'ble Mr. M. S. Das to move that the words " but the previous entry shall be admissible as evidence of the facts existing at the time such entry was made " in lines 4, 5 and 6 of the proviso to clause 151 (2) be omitted.

*The Hon'ble Mr. Das to move that the word " *nij-jote* " be inserted before the word " land " in line 1 of clause 163A (1) (b).

*Ibid, p. 262.

Digitized by srujanika@gmail.com

The Hon'ble Mr. M. S. Das to move that the words "by mistake" be inserted after the word "recorded" in line 1 of clause 163A (1) (b).

If motion No. 248 be carried, the Hon'ble Mr. M. S. Das to move that the word "by mistake" be inserted after the word "recorded" in line 5 of clause 163A (1) (b).

The Hon'ble Mr. M. S. Das had given notice to move that the word "and" be omitted from the end of clause 163A (1) (a) and inserted at the end of clause 163A (1) (b), and that the following be added as sub-clause (c), namely:

"(c) this sub-section shall be deemed to have been in force at the time when the records-of-rights specified in clause (b) were published".

The Hon'ble MR. M. S. DAS said:

"I beg permission to move amendment 250 in the following modified form, which has been approved by the Hon'ble Member in charge: That the following sub-clause (1a), be inserted after sub-clause (1) in clause 163A, namely:

"'(1a) Any land recorded as *nij-chas* in a record-of-rights finally published between the years 1906 and 1912, which falls within the category of proprietor's private land under the provisions of clause (b) of sub-section (1), shall be deemed to have become proprietor's private land with effect from the date of the final publication of such record'".

(The following motion was, by leave of the President, withdrawn.)*

The Hon'ble Mr. M. S. Das to move that the words "whether tenure-holder or raiyat" be inserted after the word "*baji-aftidar*" in line 1 of proviso (ii) of clause 164 (2).

CLAUSE 207†

The Hon'ble Mr. M. S. Das moved that the words "where an appeal is not allowed" be substituted for the words "whether an appeal is allowed or not" in line 4 of clause 207(i).

*Ibid, p. 263.
†Ibid, p. 264.

Digitized by srujanika@gmail.com

He said:

" Sir, the clause, as it is in the Bill, says:

'the rules in rule 13 in Order XVIII in the first Schedule to the Code of Civil Procedure*, 1908, for recording the evidence of witnesses shall apply, whether an appeal is allowed or not'.

" That rule lays down that, in cases in which an appeal is not allowed, the Judge shall make a memorandum of the evidence. But, of course, in cases where an appeal is allowed, a regular record of evidence should be kept. Here it is said that, whether a case be appealable or not, there need be no regular record of evidence. Considering, Sir, that this evidence is to be recorded, and these suits are to be tried, by Deputy Collectors, whereas the Civil Procedure Code* was framed for the guidance of the Civil Courts, is it not desirable that this privilege, that is to say, the making of a memorandum only and not the full recording of evidence, should be given only in those cases where no appeal is allowed ? For, where an appeal is allowed, evidence ought to be recorded in order to place the Appellate Court in a position to judge whether the judgment is correct or not. I simply ask for what the Civil Procedure Code has enacted, and I hope the Hon'ble Member will not oppose it ".

(The following motions were, by leave of the President, withdrawn.)

CLAUSE 219

The Hon'ble Mr. M. S. Das to move that the words " whether tenure-holders or raiyat " be inserted after the word " *bajiaftidar* " in line 2 of clause 219 (1) (c).

CLAUSE 226

The Hon'ble Mr. M. S. Das to move that the words " *bajiafti* tenancy " be substituted for the word " *bajiaftidar* " in line 2 of clause 226 (2) (a).

*i.e., Act V of 1908.

Digitized by srujanika@gmail.com

CLAUSE 227

The Hon'ble Mr. M. S. Das to move that the word "raiyat" be inserted after the word "*bajiaftidar*" in line 2 of clause 227 (1).

CLAUSE 228

The Hon'ble Mr. M. S. Das to move that the word "raiyat" be inserted after the word "*bajiaftidar*" in line 2 of clause 228 (1).

CLAUSE 231

The Hon'ble Mr. M. S. Das to move that the word "*bajiaftidar* raiyats" be substituted for the word "*bajiaftidars*" in line 2 of clause 231 (3).

CLAUSE 232

The Hon'ble Mr. M. S. Das moved that the words "or the right of co-sharer landlords" be inserted after the words "decree-holders' right" in line 1 of clause 232 (2).

He said:

"I think there has been a mistake on my part in drafting my amendment, and I understand that a counter-proposal will be put forward".

The Hon'ble MR. DAS said:*

"Sir, I congratulate the Hon'ble Member in charge of the Bill, and those who were associated with him in carrying this measure through the Council, on the earnestness of their wishes and their work, and I personally take this opportunity to express our gratitude to our admirable Secretary and to the Hon'ble Legal Remembrancer, to whose intercession I owe the introduction of the sub-clause which will give a retrospective effect to clause 163A, and which occupied so much of my time when I moved for the postponement of the Bill.

*Proceedings, op. cit., p. 270.

Digitized by srujanika@gmail.com

"The Hon'ble Member in charge of the Bill has referred to hard knocks. I suppose old men are accustomed to hard knocks, and can stand those knocks at least as well as young men. Far be it from me not to appreciate the desire on the part of Government to do justice to Orissa. My principal ground of complaint has been that, on account of the shortness of time at the disposal of this Council, many things could not receive the attention which I am sure they would have received at the hands of Your Honour and of this Council, if the life of this Council had been a little longer. Nobody knew that we were going to have these administrative changes. Consequently, we were not prepared for this state of things. I will just mention one instance. When this Bill was referred to the Select Committee, I was bed-ridden, and one of the other Members for Orissa asked the Select Committee for the postponement of the discussion for a fortnight. I feel confident that, under ordinary circumstances, Your Honour would have granted the request, that is to say, had it not been that Orissa was to be transferred so soon. My position was that I was quite unable to do my duty towards the people whom I represent — that duty to which the Hon'ble Mr. Maddox has alluded. I cannot say to the people of Orissa that I have done my best. Certainly, it was in the power of the Government to ask me to resign and appoint another person who could have taken up the work at once — the work, as I said before, being of a peculiarly difficult character.

"It has been admitted that, on account of the Revenue Settlement and of the Revisional Settlement having been made under the provisions of the Bengal Tenancy Act, certain errors were committed, and that one of the objects of this Bill is to correct those mistakes. Now, that in itself is difficult work. Once the existing law is disturbed it is really a work of validation that is being done, and it requires a great deal of time and attention on the part of lawyers to do that. I do not like to say anything more now, because perhaps I have been considered the greatest obstructionist in this Council to the easy passage of the Bill. All that I can say is that I do hope that the Bill will work as successfully as those who are responsible for it expect it to do. I do hope that there will not be thousands of cases over the communal lands of Orissa; for the result, in that case, would be the ruination of the poor people. I believe the people have a right to say to the Government; 'Do not leave dubious points

Digitized by srujanika@gmail.com

of law to be settled by Law Courts, when you are enacting a piece of legislation', for the Law Courts are expensive. People have to pay for case-law while they don't have to pay for law which is passed on the anvil of legislation. It makes all the difference, and in the case of the poor people of Orissa the difference means a great deal. I regret very much that I cannot divest myself of the feeling that there has been a certain amount of hurry and disputation in connection with this Bill. I do not like to use the word 'rush', as I know it is not liked, just as the word 'maintenance' is not liked, and raises angry passions when mentioned. I would, however, mention here that we have under the necessity of hearing a defence of the maintenance chapter from the Hon'ble Mr. Kerr and I have been able, though at the last moment, to induce the Hon'ble Member in charge of the Bill to give retrospective effect to clause 163A. What do these facts show? These facts show that the Bill had defects which could not be solved till the last moment. I do not like to say anything more. I only hope that the Bill will prove to be a blessing to the people of Orissa, as it is expected to be by Government".

The Hon'ble MR. DAS said:*

"Your Honour, I do not know whether any Hon'ble Member present here to day has been elected to this Council as often as I have been. We are just now at a very significant moment in the history of this Council. Hon'ble Members have, to use the expression of the Hon'ble Mr. McPherson, given and received hard knocks, but we have always felt that, collectively as a corporate body, we were a force, a political force, a legislative force, with the President as our leader and captain. We are just at the moment when that force will be, for the time being, disbanded. Naturally, there is a feeling amongst us which can better be realized than expressed. The Hon'ble Maharajadhiraja Bahadur of Burdwan, in referring to the administrative changes which have been introduced, expressed his good wishes towards the people of Orissa and Bihar. I am personally very thankful for that expression of goodwill. If the Maharaja will accept it, I would offer him, in my representative capacity, the gratitude of the people whom I represent. As regards the expressions of

*Ibid, p. 283.

Digitized by srujanika@gmail.com

gratitude and grateful appreciation of the virtues of our President, I beg to associate myself with these with the greatest pleasure. Whether the administrative change which has brought about the present severance will be good or not for Orissa is a question which only prophets can answer, but the record of this Council and of Orissa's connection with this Council is a matter of history — at least will be a matter of history two or three days hence; and history, Sir, stands on a much firmer basis than prophecy. I am especially thankful to Your Honour for the remarks which went to show the interest you have always taken in the people of Orissa during the time you have been at the head of the divisional administration there. Before we part, let me assure you, Sir, on behalf of the people of Orissa, that the people of Orissa will always watch your career with interest, and always entertain a hope, and join in the prayer, that you may enjoy still higher honours and occupy higher offices, and be a source of good to the people among whom you may live. The people of Orissa will always call you, as they have hitherto called you, 'Duke of Orissa', though the people of Bengal may call you 'Sir William Duke'; and Orissa, though severed from Bengal, will have this satisfaction, that the experience, which your Honour has gained in Orissa, has been placed at the service of Bengal. Orissa has also been useful to Bengal in other ways, having contributed to some extent to the experience which an officer like Mr. Maddox now possesses in the high office which he occupies. I wish to express Orissa's kindly feelings towards this Council, towards Bengal and also towards Your Honour personally".

Digitized by srujanika@gmail.com

SECTION TWO

[*The new Province of Bihar and Orissa was created on* 1 *April* 1912. *In the new Council of the Lieutenant-Governor of Bihar and Orissa, Madhusudan Das continued as a member from* 1912 *to* 1923. *He served as the Minister of Local Self-Government from* 6 *January* 1921 *to* 9 *March* 1923. *His speeches have been collected from the Proceedings of the Council of Lieutenant-Governor of Bihar and Orissa, and after* 1921) *the Legislative Council of the same Province.*]

34. The Orissa Tenancy Bill, 1913*

" Your Honour, in the course of the speeches made on behalf of Bihar by the Hon'ble members who have preceded me expression was given to the advantages which Government has conferred on that portion of this province. As one who comes from Orissa, I felt it my duty to give expression to the gratitude which the people of Orissa likewise feel but I thought that instead of making too many speeches I would reserve my remarks on that subject till I could also say something in regard to the resolution in connection with the outrage at Delhi which I had observed the Hon'ble Babu Bishun Prasad was to move.

" Your Honour, in a just appreciation of the boon which has been conferred upon us by the creation of this province, and in the grateful feelings which operates in the hearts of the people, I can on behalf of the people of Orissa, assure you that we stand equal with Bihar or any other part of the new province. It is indeed to the outside world a very sad picture that in this council whilst we are thanking His Majesty and His Majesty's representative in this country for having conferred this boon, for having, I might say, brought into existence a new province in order to a greater extent millions of people, who have hitherto been much left in the cold, may enjoy their proper share in the administration of the country and in the civilizing influences of that administration as controlled by Britain, I refer, to the resolution which is

*Proceedings of the Council of Lieutenant-Governor of Bihar and Orissa, 1913, pp. 13-14.

Digitized by srujanika@gmail.com

before the council expressive of our condemnation of the attempt made on the life of His Excellency the Viceroy upon one who though on assuming charge of the ship of State he found the waters by no means calm has so safely steered it to the harbour of peace and contentment, so winning the admiration and affection of the people of this country. The recent territorial changes, which gave birth to our province have made its people doubly grateful to his Excellency, and while we were gratefully reflecting on all this there comes the news of the detestable and cowardly attempt on His Excellency's life.

" One of the Hon'ble members who preceded me has said that the outrage was the work of an individual and not of an organization, but on a previous occasion when speaking in the Bengal Legislative Council in connection with the assassination of Sir Curzon Wyllis, I used strong expression when referring to miscreants of this type and received a letter from the sedition camp threatening me with death if I did not retract the remarks I then made. I am glad to say that I have lived not to retract but to reiterate here what I then said and to aid with emphasis that it is no use keeping back our honest opinion in regard to the men who commit such outrages. If it is really the result of an organization, all those who pull the srings from behind the screen should be regarded as men who carry a viper's head on human shoulders. I feel, however, that these things are not indigenous to India but are a defiled byproduct of western education. It is, however, a matter calling for active cooperation between the public and officials. Your Honour, it is a very pleasant thing to be able to say that so far as the new province over which Your Honour presides is concerned, such outrages are happily non-existent and I hope there shall never be such a day in this province of Bihar and Orissa when we shall have occasion to regret the occurrence of one. One of the Hon'ble members has referred to the past grandeur of Bihar. Orissa also has a past which is not lacking in grandeur and like other parts of the province, Orissa likewise looks with eyes of hope and faith to the sunlit hills we are proceeding on to after passing through the dark valleys of the past.

" It is not necessary for me to give expression to our sympathy with their Excellencies or our admiration of the courage and fortitude which Lord and Lady Hardinge displayed as expression to

Digitized by srujanika@gmail.com

this has already been so fully given, but as we look upon His Excellency as the father of this province — a statesman who brought it into being, we owe towards His Excellency just the same feeling as children have towards their fathers and it is not the outrage only about which we feel agrieved. The men who were pulling the strings from behind are wanted by the millions of this province, and till such times as they are discovered and receive their deserts our disappointment and grief will be only equalled by that which we feel at the outrage itself.

"I do not think I should be justified in taking up any more of Your Honour's time but would like just to add my grateful thanks if they are worth anything for the introduction at this meeting of the council of the Orissa Tenancy Bill. I am so glad that it has been introduced at the first meeting of the council and I have no doubt that it will receive all the attention which it deserves."

35. Condolence on the Death of Sir Edward Norman Baker*

"Your Honour,

I had the privilege of knowing Sir Edward Baker for many years. I had the honour of associating with him in the Bengal council when he was one of the secretaries. I had often occasions for discussing matters with him in the council chamber and also privately, and both, as a man and as an official he was always open to conviction, always ready to view with sympathy the non-official view of a question and the way in which he viewed a question put before him by a non-official member always earned for him the personal attachment of his antagonists. I had also the privilege of being a member of his council when he presided over the enlarged reformed council, and I shall never forget the impressive manner in which he addressed the members of his own service as to the change in nature of their duties which the reformed council had brought about. When he left Calcutta I saw him at the Howrah railway station. I was certain he was not coming out again because misfortune after misfortune had overtaken him,

*Ibid, p. 4 (Spoke on 5 April 1913).
Sir Edward Norman Baker was the Lieutenant-Governor of Bengal. The resolution was moved by Sir Charles Stuart Bayley, the Lieutenant-Governor of Bihar and Orissa.

Digitized by srujanika@gmail.com

but little did his friends, little did those people who had the honour, the privilege of living under his rule know that his end was so near. While he was among us we always felt that we had amongst us a ruler who was most willing to view with sympathy popular ambitions and aspirations and more especially the ambitions and aspirations of the educated classes. While he was away, thousands of miles away from us, we knew that he took an active and sympathetic interest in the progress of the educated people of this country. So in his unexpected death we the Indians have lost a friend who had sympathy for us, a ruler who was a friend to us and an official who, while he was amongst us in his daily life in the discharge of his official duties, left behind him as a legacy an example of what an official ought to be in order to gain esteem and regard and personal attachment of the people over whom he rules. I am sure I am echoing here the feelings and the voices of thousands of people who had opportunities of realizing the extent of his sympathies for the people. With these words I associate myself with feelings of great sympathy for the bereaved family in the deep loss sustained by his friends and relatives embodied in the resolution which your Honour has been pleased to move."

36. The Budget 1913-14*

"Your Honour, I do not think it is possible for me to add to the chorus of praise and congratulations which your Honour's Government and the Hon'ble member incharge of the finances have received on account of the budget now before us. But I am likely to be misunderstood, if I did not add the hoarse voice of an old man to the praise which your Honour has received from the other Hon'ble members. I am rather unfortunately situated here. I am sorry that I could not hear most of the speeches made at the other end of the hall; that I am sure is not due to any defect in my auricular appendages. I do not know the secret of elongating the auricular appendages. If my Hon'ble colleagues on the other side do not hear me I hope they will not accuse me of a spirit of relation. It has been said by one of the members that this budget speech is not necessary now; whether it is necessary or not it is not necessary for me to say, but since there have been

*Ibid, p. 109.

Digitized by srujanika@gmail.com

budget speeches today I think Your Honour will give me my share, if not quite 15 minutes, at least five or six minutes. There are two or three things which did strike me. It is no use making a secret of the fact, Sir, that when the announcement of the creation of this new province was made there were many people who viewed the situation with the greatest possible alarm. I heard some of our best men say that they could not adjust themselves to the new state of things and that it would take some time before they could do so. While considering how difficult it is to provide for the wants of a new province which has been constituted or constructed (whichever word we may use) out of the odds and ends of another province, where these odds and ends did not receive their due share of attention under Bengal Government and considering that it was the intention of His Gracious Majesty that those parts of this old province which did not receive their due share of attention should receive due attention under the new Government, I, say, considering how difficult a task this Government had before them, the budget which has been presented to us shows something which we can only admire, and not only that but must gratefully acknowledge the attention, the sympathy and the high sense of duty which must have inspired those officers (specially the Hon'ble Mr. Gait) who have been responsible for the budget. It is rather a very happy circumstance, Sir, that we start in a new course of life. The expression 'baby province' has been used by some speakers. I am responsible to some extent for this expression. It is an advantage to us. Frequent reference has been made in this council to the question of education. Most of the members have referred to the question. The Hon'ble Raikishan Sahay Bahadur has referred especially to primary education and female education. We are starting in the line of education anew and fresh. That is certainly a decided advantage to us, if we do not allow the lessons of the past where the results of education have been unsatisfactory, to be lost on us. The question of education, Sir, is a very difficult question in this country. It is really a transplantation of the civilization of the west in the east; substitution is not possible. It is only grafting that is possible and in any system of grafting you have to take into consideration the nature of the plants on which you graft, the fibre of which it is constituted and the circumstances under which it can grow. Any disregard to these circumstances will make the grafting a failure.

Digitized by srujanika@gmail.com

Primary education should be directed to the training of hands. Training of brain only without corresponding education of the hands reminds me of the man who adds power to the car without providing wheels. You may put as much petrol as you like in the car, increase its power as much as you like but you cannot make it move without its wheels. It will never advance without the wheels, it will burst and that is really the case when brain power is increased without corresponding improvement of manual skill. Human mind must have communication with the hands. We often hear of people speaking of the development of industrial and technical education, but anybody who has practical experience of the questions must admit that the difficulty in this country arises from want of the supply of skilled labour. We must not lose sight of the fact that India is a country where higher classes appropriate to themselves, or I should say misappropriate, the advantages of education, leaving other classes to be untouchable and detestable, and it is those lower classes who can help us in development of the industries of this country. Therefore their hands must be strengthened if I may use such an expression, we must impart intelligence of their hands. Then, Sir, as regards female education it is very often supposed by western people that the zanana is a prison where the Hindus and Muhammadans keep their females as prisoner. Though I am not a Hindu myself I was brought up in a Hindu zanana and I believe, Sir, and I do not hesitate for a single moment to give emphatic expression to my belief that the zanana is not a prison; it is a treasure house, it is a temple where a Hindu or a Muhammadan, where an Indian has everything that is dear, that is precious, that is holy, all that is tender and all that is loving in human nature. It has not been influenced by any foreign influences up to this date. In female education, therefore, Government undertakes a very responsible duty and we cannot be too careful in paying particular attention to the feelings of the peoples. I must express my regret that I am unable to agree with what the Hon'ble Mr. Lee has said in his speech regarding imperial and provincial Technical Institutions. In my opinion both provincial and imperial Technical Institutions are necessary. We must be prepared to fight with the world outside, and consequently it is necessary that we must have provincial institutions as well. These provincial institutions are required to enquire into and find out the natural resources of each province and also to find out the means how and in what directions they can be utilized."

Digitized by srujanika@gmail.com

37. Separate High Court for Bihar and Orissa*

" Your Honour,

" Whether it is necessary to have a separate High Court for Bihar and Orissa or for the new province, that is one question, and it is quite a different question as to whether it is necessary to have a separate High Court for Bihar and Orissa at Patna. Of course sitting at Patna and the resolution coming from a gentleman who resides in Patna we may decide that we should have a High Court at Patna. I am not at all speaking for the people of Orissa or for the people of any part of the province, but at this stage of preliminary discussion on the subject the resolution would be accepted better by the general public outside, and remove all possible friction not only among the people of Orissa but also among the people in different parts of Bihar itself, if the Hon'ble mover of the resolution put the question, rather gave the resolution — this form ' a separate High Court for Bihar and Orissa '. At a stage like this, at least even if I were a young man, I would eliminate anything that would create a local interest or local opposition. Therefore I should suggest that, of course, as regards the question of a High Court for the province there cannot be two opinions. Whether it is convenient to the people of Orissa or whether it is convenient or inconvenient to the people who live at the further end of this province or of Bihar itself, that is a different question, that is a question of convenience, and perhaps it has also a financial aspect as regards litigants. But I believe, Sir, that it is not possible to develop the province without having its highest tribunal located not in any particular place (I do not believe that there is much in locality) without having its highest tribunal particularly interested in its large affairs. By affairs I mean the legal incidents of the lands, of property and rights arising out of property. Here we have the instance of Orissa itself. We were, of course, under a High Court which was away from us and which could not devote that attention it ought to have. The absence of attention may be due to paucity of cases that went of Orissa. Whatever might be the cause of it, it is a fact that it did not receive that attention which it ought to have received. The result was the anomalies of the Orissa Tenancy Bill which is before us. Then, Sir, there is a peculiar connection between the

*Ibid, p. 123.

Digitized by srujanika@gmail.com

legislature or the legislative council and the High Court. The legislative councils are compared very aptly to the anvil. Here you give a certain piece of legislation a shape, thinking that it is likely to form a useful tool for carrying out a particular work in view. The highest tribunal will try it and pronounce whether it suits the purpose or not. Then it becomes the duty of the legislature again to give it another form or shape it anew or afresh. So there is actually the relation between the legislative council and the highest tribunal which exists, if I may use the metaphor, between certain organs of the body which purify the blood eliminating from it all poisonous matters and impurities and then send it back to the heart, so that it may do its actions again."

38. Extension of the System of Trial by Jury*

"Your Honour,

"My personal knowledge of Bihar is not such as to justify me to make any remarks which have been made by the mover of the Resolution, but this fact has been brought into prominence that for more than half a century Patna has had the jury system, and I understand that in the estimation of Government the Bihar province — or rather the subprovince had so far advanced that connected with Chota Nagpur and Orissa, it was to be constituted into a separate administration, that it was necessary to separate it from Bengal. That leads one to suppose that in the estimate of Government sufficient advance has been made in Bihar, so that Bihar would supply the needs of an administration — I say the intellectual needs of administration — such needs as arise in an attempt to form a provincial council and other institutions. A good deal has been said with regard to the difference of trial by a jury and by a judge, but some how or other all the speeches which have been made have lost sight of the fact that there is a third factor in a trial by a judge, and that is the assessors. If on the one hand we take it for granted that the trial of a case by a judge is a sufficient guarantee for justice, not only in the opinion of the government but also for ensuring public confidence, then certainly, Sir, it seems to me strange to have assessors there.

*Proceedings of the Legislative Council of the Lieutenant-Governor of Bihar and Orissa, 1914, p. 73.
Above resolution moved by Krishna Sahay was discussed on 17 Jan. 1914.

Digitized by srujanika@gmail.com

If the decision of a judge is a sufficient guarantee, why have assessors? The presence of assessors tends to supply only to a certain extent the duty which is meant in all civilized countries to be done by a jury. The duty of a jury is only to take a common sense and popular view of the evidence. Such evidence is weighed by people and not weighed in the scales held by a technical lawyer. The evidence given by men is always better appreciated, better weighed by those who know the persons, who give the evidence and who know the environments of their ordinary life. In the administration of justice in India where the presiding judge is very often a foreigner, it is absolutely necessary that the evidence should be looked at from the Indian point of view, and sometimes from the point of view of those men who are considered to have taken a chief part in the transaction or in the act which is the subject matter of the enquiry or trial. It is the duty of the jury to weigh the evidence, and of the judge to point out to the juror the law which should guide them. If we had in the near future a real prospect of England getting rid of trial by jury we shall then be prepared to give up our claim to be tried by jury. I suppose it will be necessary to put a very large discount on public views and public opinion before England gets rid of the system of trial by jury.

"It was also brought to the notice of this council that in a trial by jury the counsel for the defence addresses the jury last and this gives the defence an undue advantage.

This is not correct. If the defence produces evidence the prosecution has a right of reply and in that case the public prosecutor addresses the jury last.

"The prospect of the abolition in England of trial by jury is based on the opinion of the London Times. The Times represents the opinion of a party in England. It does not represent the opinion of England — English public opinion. A newspaper in England represents the opinion of a party. It is maintained by partisan spirit and it ill-becomes a newspaper to say that a jury is influenced by party feelings. I suppose before we do that we should expunge some clauses of the Criminal Procedure Code where this privilege is given to a British-born subject to claim a trial by jury. I do not suppose Europeans in this country would like to give up that right and yet we are told that trial by jury is cumbersome, embarrassing and inconvenient. We have been told that a jury changes its mind. That shows that the men are open to argument, that is a better state of things than to

Digitized by srujanika@gmail.com

have a judge who is determined to convict because the police have sent up the accused.

" Your Honour, it has been said by the Hon'ble Khan Bahadur Saiyed Fakhr-ud-din that the people of Orissa have not said anything as regards their wishes in respect to this privilege. If literacy is considered to be a ground on which to claim this privilege — and it was brought to the notice of this council that Orissa is more advanced than any other part of the province, so far as the number of literates is concerned — Orissa should certainly have voiced its opinion in this matter earlier, but perhaps Orissa is waiting to see how other parts of the province fare in Your Honour's decision with regard to this privilege. At any rate, if the jury system is an evil, let it be abolished throughout British India. If trial by jury is cumbersome and hampers the administration of justice, let it be abolished.

" It has been said also that the system is no longer popular in England. We should wait to see whether it is really so. If the system is about to be abolished in England let the privilege be first withdrawn so far as Europeans in this country are concerned. We Indians are not allowed to follow England in anticipation of a change which may come. With these words I support the resolution. "

39. Discussion on Revised Financial Statement*

" Your Honour,

" I am thankful to the Hon'ble Mr. McPherson for most useful information about the Santal Parganas, which has been correctly collected and lucidly placed before the council. But he has told us that what the mover of the resolution asks for is a shadow and that he has lost sight of the materials which form the real substance. The question before the council is whether the Local Self Government act should be extended or not. This council does not sit to judge if the Local Self-Government Act is a failure. The whole thing might have been a shadow, but this council is not competent to judge that. The mover of the resolution simply asked for the introduction of the act to the Santal Parganas in the circumstances mentioned by him. The Santal Parganas has been subjected to the case and as a legitimate legal conclusion of

*Ibid, p. 160.

Digitized by srujanika@gmail.com

the state of things he asks that this act should be extended. The Local Self-Government Act is an act which has attained its present state by a gradual process of advancement and this has been very well shown in the speech. It may be that there actually exists such a state of things in the Santal Parganas to which the Local Self-Government Act does not apply, but then from the speech it appears that when the Act was amended in 1908 it was the intention of the legislature that it should be extended to the Santal Parganas. A very difficult question has been raised as to what should really be the substratum of Local Self-Government. It is very difficult to decide this question in this council at such a short notice.

The question really before the council is whether the Local Self-Government Act, as it is, ought to be extended to the Santal Parganas and if it is not to be extended, what are the reasons for which it should not be? Local Self-Government does not necessarily mean as I understand a state of things in which the official influence is greater, but on the contrary, such a state of things conflicts with the very idea of self Government. If there is actually self Government in the Santal areas or in some villages, there is a nucleus of which a Local Self-Governing body could be constituted, certainly it would be necessary to modify the Local Self-Government Act in such a way as would suit the needs of the community, but that is no reason why the resolution now before the council should be opposed in the way in which it has been opposed. If it is the intention of the Government to introduce a modified form of the Local Self-Government Act so as to suit the peculiar conditions of the Santal Parganas this is not the proper time for the consideration of that question. What I object to is the expression that the provisions of the Local Self-Government Act should be called a shadow. We have not before us the so-called substance, nothing to show us its elements and form."

40. Presentation and Explanation of the Budget: Item No. 3 in the List of Business*

"Your Honour,

"I beg to associate myself most heartily with the felicitations which have been offered to Your Honour and Your Honour's

*Ibid, p. 51 (6 April 1914).

Digitized by srujanika@gmail.com

Government in connection with the satisfactory budget which is now before the council, in addition to the reason for which Hon'ble members have offered their congratulations to Your Honour's Government from my point of view. That additional ground is to be found in the fact that the Budget contains provisions to promote the interest of classes who are not represented in the council. I shall have occasion to refer to these provisions later. A Government which studies the needs and wants of the people and provides for them, is to be congratulated more and is deserving of higher praise than a Government whose sympathy is extended only to classes who ask and knock.

" To a man who has arrived at my age and can recall the state of public opinion and the policy of Government on matters of public importance as they were half a century ago, the contents of this Budget suggest peculiar thoughts. One of these thoughts is that after all there is a silver lining to the darkest cloud of disappointment, which surrounds the horizon of a non-official public life. Some time in the sixties of the last century the Reverend Lal Behari Dey read a paper on the necessity of primary education. It was at a meeting in the Medical College theatre in Calcutta. The meeting was presided over by Sir John Bartle Frere, whose name was dear to all educated men of the time owing to the earnest active interest he took in furthering the cause of higher education in Calcutta. Sir John Lawrence, the Viceroy at the time, was present at the meeting and so was I. The Reverend Mr. Dey's pleadings for primary education met with opposition from official quarters. It was believed at the time that if the higher classes of society be educated, education will filter down to the lower classes. Experience has shown that this theory is not correct. Indian society in the dissemination of culture is not a filter. It is a jar hermetically sealed.

Early in the nineteen of the last century, at a meeting of the Bengal Legislative Council, I suggested the desirability of combining manual training with education in primary schools — with a view to train the hand and the eye, and to remove false ideas about the dignity of labour. A false idea that manual labour was infra dig, was gaining ground and it was necessary to remove it. My suggestion met with violent opposition from the Chief Secretary at the time. It was ridiculed, and I consider myself lucky that I was not sent to a lunatic asylum. The Education

Digitized by srujanika@gmail.com

Department of that time believed that it was their duty to educate disembodied spirits. It mattered little whether the product of their system of education was a miserable piece of human commodity, as I am, or if it was a copious and unabridged edition of it as my friend the Hon'ble Babu Dwaraka Nath is.

"At pages 10 and 11 of the Budget before us I observe provisions for a suggestion which was radiculed on the last nineteenth century. Before the council met I asked the Hon'ble Mr. Jennings, the Director of Public Instruction, for an explanation of this item (manual training) in the Budget and he told me that the provision was meant to train the hand and eye.

"The Government policy of training the brain, only to neglect the body, as if our students were disembodied spirits, has produced result worthy of the theory. I am glad their labours have been only partially rewarded. A better harvest would have been disastrous. They have produced volatile spirits who allude detection, arrest and identification, who threaten to turn a district into a haunted house where terror and horror rule at night and peace and tranquillity in daylight. The training of the hand and the eye is very important. We Indians have not yet learnt to estimate the value of trained organs of sense. All our organs of sense, when trained, constitute a valuable commercial asset and add to the nation's wealth. The French have trained their eye and they lay the whole fashionable world under tribute. They have trained their tongue, and the Englishman, though naturally proud and self contained, would not eat his poultry unless they are called poulet and dindon.

"Division of labour is the keynote of the industrial success of Europe. If the industries are to be improved we must introduce division of labour. That principle was unknown in India. The caste system had its origin in division of labour, but it suited a past stage of society. It did not carry the application of the principle to the requisite extent. In its present condition it is not suited at all. The same man saws the timber into planks, cuts them into necessary sizes for the work in hand, dovetails them, turns out a piece of furniture, polishes it and sells it. The caste system, as it now is, assigns this work to one caste — the carpenter. No man who puts his hand into so many kinds of work, each requiring the use of a different set of tools and in many cases calling for the exercise of a different set of muscles,

Digitized by srujanika@gmail.com

can possibly attain excellence and perfection in any one of the branches of labour. One often hears complaints of want of finish in the Indian artisans' work; the simple reason for this is want of division of labour. We must have division of labour, we must aim at having specialized labour. Situated as we are now, our industries must be able to compete with those of Europe.

" But the introduction of the principle of division of labour is a very difficult work. It is not possible to induce the present generation of artisans to come to an understanding between themselves and effect a division of their occupation. The carpenter in the bazar depends for his daily bread on the cash sale proceeds of a finished piece of furniture. No one will buy an unfinished article and yet if division of labour be applied the last man will own the finished article and every other person will produce an unfinished article. Considering the difficulties that beset this I congratulate the Government on the provision to be found on page 82 of the revised Budget. There is provision for the employment of skilled artisans in district jails to improve the industrial training of prisoners.

" In the jails specialized labour on the lines indicated may be easily introduced. The necessary discipline cannot be enforced there, but to produce the desirable end the work must be supervised by a man who understands the principle, has experience to be able to decide the area of each compartment of labour, and above all he must be a man who takes an interest in the work.

" The next thing necessary to improve the industries is to raise the social position of the artisan class. In the days of the Hindu kings art flourished in India because the kings patronized the artisans. They were rewarded with Jagirs and titles were conferred on them. At the present time our rulers occupy the position of the kings of ancient India. When the receptable of an address to the ruler of a province is a work of art it is admired. The ruler receives it from the magistrate or the chairman of the municipality and the magistrate and the chairman receives the thanks. But the artisan who made the casket is not allowed admittance into the place where the function is held. Is it any wonder then that the son of an artisan prefers to become a clerk and become a municipal commissioner and to be introduced to the Lieutenant-Governor, but as an artisan he will be kept away by the constable on Rs. 6/- pay. I do not see why the hand

Digitized by srujanika@gmail.com

which eats the bread should be ashamed to earn it. But the remedy for this state of things lies in the hands of the rulers. Sir John Woodburn received an address from some artisans; he shook hands with them, talked to them. I know Lord Curzon intended to do the same and he would have done it but for some unforeseen circumstances. I feel for the artisan classes and therefore I have spoken out my honest convictions."

41. On Legislative Business*

" Your Honour,

"Viewed as a pure question of law the amendment ought to be allowed. The provision of the provincial Small Cause Courts Act to which reference has been made, does not afford any help in the solution of the question before us now. In the Small Cause Courts Act the judgement debtor is required to deposit the decretal amount before his application for revision of the decree can be entertained. The reason for this is obvious. There has been a decree which must be presumed to be correct and the deposit on the amount is demanded with a view to deter judgement debtors from making frivolous complaints. But in this case the deposit is not demanded to deter a man from making a frivolous application. If the clause provided that the certificate debtor would not be allowed to apply to set aside the order of sale unless he deposits the amount due, it would have been in harmony with the principles on which the provisions in the Small Cause Courts Act is based. But it is not here as the clause stand. If the certificate officer finds that notice has not been served or that the other irregularities mentioned in the first part of the clause have occurred, he comes to the conclusion that the sale ought to be set aside. Just at this moment clause (c) comes in and it directs officer to hold his judgement in abeyance, not to put it down on paper till the man has made a deposit. This is what I object to as being inconsistent with known principles of judicial independence. A line must be drawn between a judicial officer's jurisdiction to enquire into a matter at the beginning and an interception of his judgement when his judgement has been formed. On this ground it is objectionable. It is open to the council to enact that the application to set aside should

*Ibid, p. 72 (6 April 1914).

Digitized by srujanika@gmail.com

not be entertained, unless it is accompanied by a deposit of the amount.

" It is a well-known principle of law that a party should not suffer on account of laches on the part of officers. When the officers have found that there are irregularities for which the court or its officers are responsible the party should not at that stage be called upon to pay."

42. Discussion on Orissa Tenancy Bill*

" Before I proceed to make any remark I should most sincerely congratulate the zamindars of Orissa on the fact that their interest has been so powerfully and eloquently advocated in the council by two gentlemen, one of whom is a scion of a very ancient family and the other is an experienced retired officer. After all the discussion that has been made in the council I should not feel inclined to make any remark had it not been for the fact that this clause is a very important measure and that a far greater importance has been attached to the measure by its opponents bringing into relief the fact or rather the allegation that such a clause does not exist in the land laws of any part or province of India. It really comes to this, Sir, that we are sitting here to legislate and to deprive the zamindar of some rights of which he has not been deprived of under any Government and it is that which gives importance to the question.

"A good deal has been said about the proprietary right of the zamindars. Reference has been made to remarks and despatches of Messrs Shore and Harrison. All that I can say to my Hon'ble friends who have made reference to those despatches and extracts is that they should refer to the final decision of the Court of Directors on Mr. Shore's remarks. When the permanent settlement was conferred on the people it was understood that the zamindar would take up the position of a father to the raiyat, that he would be actually the guardian of his raiyats, the custodian of his interests and in case he did not fulfil his duty, in case he did not discharge the obligations which the Regulations had laid on him, the Government reserved to itself the power of legis-

*Discussion took place on 7 April 1913.
Proceedings of the Legislative Council of the Lieutenant-Governor of Bihar and Orissa, 1914, p. 41.

Digitized by srujanika@gmail.com

lating whenever necessary, to protect the interest of the raiyats. That is a reservation which seems to have been lost sight of in this discussion. 'Proprietary', instead of discussing what the connotation of that word is, let us take the different elements that go to form its connotation. We have the fact that the raiyat has a right of occupancy whatever that right may mean. It is a part and parcel of a slice, taken out of the sum total of the rights which make up the proprietary right. Then the occupancy right; it has been said is a personal right, again it has been admitted in some of these speeches that it is a right which is heritable. How can it be personal and at the same time heritable? The father and son may according to Hindu ideas be one and the same. The Hindu call 'Pita Baijayate Putra'. Take the case of property going to a distant relative. If we look at the position it is this that, on the land which can pass to another person, who might be a very distant relative whom the zamindar might never have met, and the zamindar cannot arrest the passing of this land to this distant relative, and passes it without any salami. It has been said that the right which he has been divested of is the right of veto. Is it a right or is it an obligation? What is it in juristical language? The right of veto is this: 'If you come to me I may say I won't allow you to sell'. That is hardly a right; properly put, it is really a refusal to exercise a right. During the discussion I have heard very frequent use of the expression, which I have noted down, 'free right of transfer'. I think I have heard this expression in many of the speeches; I do not know what that means. I can certainly understand the expression 'a right of free transfer' but 'free right of transfer' is something which shows that there is some confusion of ideas at the bottom of the strong arguments which have been brought forward against clause 29. There is no such thing. If my Hon'ble friend would change that expression and use the right expression 'a right of free transfer' you will at once see the absurdity of the argument. It is the real transposition of the word 'free' which makes all the difference. We are not giving the raiyat a free transfer, we are giving him a transfer in which the right of the landlord for withholding his consent has been assessed and the value is one which he has put on his consent himself. A good deal has been said about the word 'custom' and in connection with the arguments that have been advanced in connection with custom, a reference has been made to a compromise which it is said some gentlemen

Digitized by srujanika@gmail.com

in the Bengal Council made with some of the officers. The basis of this compromise so far as I can understand is that the Hon'ble members undertook to retain custom. This is a fact urged by those, Sir, who stand up for the deletion of the clause. It is admitted by all that the practice of transfer of occupancy-holdings in Orissa has come into existence since the last Revenue settlement. That would not cover a longer period than 14 or 15 years. Neither the Hon'ble Mr. McPherson nor anybody else, nor the greatest lawyer on earth would develop custom out of a practice of 15 or 20 years. There has been no custom, and to talk of a compromise with regard to custom, to talk of custom because it is found to exist in other parts of India, is really to introduce most irrelevent matters into the discussion.

" The fact is that a certain practice has grown up and the fact is also shown that both the parties to the transaction, the raiyats and the zamindars, are willing parties to this practice, and out of this transaction certain evils have sprung up, and the question is whether it is or not the duty of the legislature to set in when it becomes cognizant of certain evils. That is really the question. But apart from that it has been said by my Hon'ble friend on my right that hitherto the zamindar was not required to give reason for his consent. Well I should say, if he were an unreasonable being till now, we want to make him a reasonable being so that he may be able to give a reason for his conduct. Then reference has also been made to certain decisions of the law courts, and these decisions talk of vested rights but in making all these references we are unfortunately losing sight of the fact that whatever might be the state of things in other parts of India, there is no custom in Orissa: there might be a local state of things which would justify the existence of custom in Bihar and Bengal. But the state of things which this legislation is meant to meet is one which has come into existence within the last 14 or 15 years, and consequently all that argument does not apply at all. It seems surprising to some of my Hon'ble colleagues that Orissa should take the lead in these matters. Unfortunately Orissa has taken the lead. Perhaps my Hon'ble colleagues do not know the fact (but it is a fact) which they will not deny, if they refer to the census report, that the literate population of Orissa is higher than in any part of India. A pious wish has been expressed by some one on behalf of the raiyats and in the interest of the raiyats. If

Digitized by srujanika@gmail.com

we do not like this clause 29, if the zamindar is going to realize his position, if he realizes the obligation that is due to the raiyat, if he has got a sympathetic heart, certainly then there need not be any dispute whatever and they may sit in their village, raiyat and zamindar and repeal this clause and never allow the collector (or this council) to do anything. If this pious wish is really realized and if there is any truth in it we need not fear this clause."

43. Resolution to Express Loyalty to the British Government and Agreement with Great Britain in the European War*

"After I heard the expression in Your Honour's speech that there was no question about the loyalty of Bihar and Orissa and coming as I do from Orissa, a province the people of which at the beginning of the last century invited British to take possession of it and have since retained their loyalty, it is not necessary for me to make on this occasion a speech expressive of our loyalty, especially as Your Honour knows that this is a time when actions, rather than words, are necessary and we admire the action of those gallant soldiers who are in the theatre of war. Of course we cannot bear arm and the mover of the resolution has referred to a certain phase of the question which I do not wish to take up now. But though we cannot bear arms we have bare arms which can work to show sympathy with the soldiers who are dying for their king emperor. It has been said and Your Honour was pleased to say so also in the speech you delivered — that Germany thought that the Indians were seditious and that they would take the earliest opportunity to throw off their allegiance to their sovereign. This hope, if anything, raises a surprise in the mind of any person who has studied Indian literature and Indian history as well as Indian nature, and Indian traditions and the ambitions of educated Indians of the present day. To such a person nothing could come as a greater surprise, because it has always been the highest ambition and aspirations of India, the India represented by her educated sons, that India should form a part and parcel of the British empire, that she should be allowed to share the privileges and gladly share the responsibilities of the Empire. I am very glad indeed that we have been called upon

*Ibid, p. 50 (date of discussion — 19 January 1915).

Digitized by srujanika@gmail.com

the present occasion to share at first in the responsibilities. As regards the privileges to which reference has been made in some of the speeches, I should leave it to Englishmen, Englishmen who represented English history in the past, Englishmen who are exponents and the progenies of all those men who were the authors of noble deeds which England has done in the past. It is our duty to do now all we can to support England's position at this critical times. It is a surprise to me that anybody in Europe should have expected that India could cooperate in any other way than in support of the British Government. A critical study of the history of India would show that it has been the endeavour of leading Indians throughout to establish a supremacy of moral and intellectual force over brute power. That has been the aim of mankind from the earliest days of the world's history, and what is the present attitude of Germany ? It is merely an attempt to wrest, to snatch away from humanity the ground which ages of effort have enabled it to gain and recover from the domains of brute force. Every inch of ground that is now occupied by science, literature and morality was taken away from the domains of brute force and the present war shows that it has been the steadied effort of Germany to wipe away from the face of the earth, wipe away from the pages of the world's history. Any person who, and any nation which aspires to rise to the high position which God has reserved for man whom he created in his own image cannot but resist with all the power that his body and heart can afford to oppose such a measure as this. Sir, this war has very well illustrated what has been the ambition of India. India looks upon the different parts of the British empire as so many rivers which discharge their water into the sea and as the sea gets all the water from the different parts of the Empire, it grows strong and becomes very powerful, able to overcome any power to deluge the world itself. That is the real ambition of India. India is willing to contribute all she has towards the war and thereby increase Britain's power so that no power on earth can resist her at any time in fulfilling and carrying out the noble mission which England has accomplished in the past and which I believe God has entrusted England to accomplish in the future. As regards what should be England's reward for the attitude of India at the present day, this I would leave to the mighty ocean, because the ocean sends up waters to the clouds, then the clouds shower down beneficence on the earth. For the present it is our duty to do

Digitized by srujanika@gmail.com

all we can to help the Government to help the people who are in need, by our own hand and with all our heart to help those who are our own kith and kin and who risk their lives for the safety of the Empire.

" With these words I cordially support the Resolution ".

44. Resolution of Condolence on the Death of Lady Hardinge and of Lieutenant the Honourable Edward Hardinge*

" This is a resolution which will commend itself to any person who has watched the life, the doings and the sympathetic attitude of Lord Hardinge towards India and the Indians. The frequent succession with which affliction have visited him calls for our deepest sympathy while his steadfast devotion to his duty, in spite of these afflictions so strikingly illustrated by a sentence in one of his speeches, namely ' I will not swerve a hair's breadth from the purpose which I have persued', mingles our deep sympathy, with admiration, veneration and sincere prayer to the Almighty and that he may be with him to console him and to help him to discharge the responsibilities of his high office which he continues to occupy at this critical time. Sir, looking at the matter from a more serious point of view, however it occurs to me that it may be that perhaps providence wishes that at this critical time in the history of the British Empire we should learn our respective duties from the person who is at the head of the Government. Sir, the Latin proverb is as good now as it was in the days of the Romans — Dulceet Decorom est Pro Patria Mori — ' It is sweet and proper to die for one's country ', and I should not like to speak more on the subject because His Excellency was here, he would not like to hear much. But I think I am echoing the feelings of each one present in this council chamber and out of it when I say that it is our earnest prayer that God may be with him to support him and to enclose him and through his hands to work out the difficult problems which are now entrusted to him ".

45. Bihar and Orissa Decentralization Bill, 1915†

" The Bill is described as the Bihar and Orissa Decentralization Bill but no representative of Orissa has been nominated to serve

*Ibid, p. 52 (speech delivered on 19 January 1915).
†Ibid, p. 387.

Digitized by srujanika@gmail.com

on the select committee. We know that the Hon'ble Mr. Levinge would worthily represent the interest of Orissa: he was born in Orissa and Orissa knew him before he knew Orissa but it is desirable that the select committee should also include a non-official representative of Orissa and I would move, therefore, that the select committee should be added to or altered as to provide for his inclusion.

The 14th January 1918, Press Communique

" Section 15 of the Bill shows that Government will not require to find funds for working the Act. Government aid is sought for introducing into the bill the element of compulsion which requires legislative sanction. There was a reference to the coercive element in the Bill which was today introduced in the Council. There are penal laws to punish parents who do not provide food for their children. It is reasonable that parents should be expected to feed the intellect of their children so that society and the state may both have the advantage of a fully developed man. The whole country loudly demands responsible Government and if they do not find funds for primary education which is essential for responsible Government, we should be exposing ourselves to serve censure. Some speakers have dwelt on sanitation and medical relief and they seem to think that these should have priority over primary education.

" But without some education it is impossible to make the people understand what sanitation is: therefore primary education should have priority. Everybody is at liberty to educate his children. In Orissa villages many raise funds by subscription and engage a teacher to teach the children. They do not require Government sanction. It is only the compulsory element in the Bill which needs Government sanction and the motion now is for leave to introduce the Bill. The detailed provisions of the Bill need not be discussed now. "

" Your Honour,

"This is a resolution in which the mover has introduced several thousand feet of most controversial legal questions between what he calls the Lord Chancellor's feet and the settlement officer's feet. This is practically a Bill to amend the Tenancy Act. In

Digitized by srujanika@gmail.com

my experience I never came across a resolution which amounted to a Bill as this one does to introduce amendments to an existing Act. In his speech the mover has referred to many points of law which one could not follow without a copy of his speech. I therefore think that the discussion of this resolution should be postponed to a future sitting of the council."

Digitized by srujanika@gmail.com

SECTION THREE

[*Madhusudan Das was a Member of the Council of the Governor General of India from March* 1913 *to* 1916 *representing the Province of Bihar and Orissa. His speeches delivered in the above Council have been collected from the Proceedings of the Council of the Governor General of India.*]

46. Criminal Law Amendment Bill*

The Hon'ble MR. MADHUSUDAN DAS: "Sir, the motion which has been put before the Council by the Hon'ble Mr. Banerjea, asks this Council to refer the matter to the High Courts and to the public generally, for eliciting their opinion. My Hon'ble friend has very clearly in his speech set before us the questions which are really at issue in the present stage of the discussion. He has brought the real cardinal questions, as it were, to a focus. The first question is this (I almost quote his words as I took them down) — Has there been any new development in the state of things in this country which requires new legislation ? During my Hon'ble friend's speech he said that such a state of things did exist in 1908; since then things have become better, things are quiet; so that Sir, we have it that in 1908 there was sufficient reason and a state of new developments, which would have justified new legislation. The only question is, whether the facts that have transpired during this interval — between 1908 and this day, justify the inference that, that state of things has disappeared, the storm has cleared up and the state of society is calm and normal. My Hon'ble friend also has referred to what he calls, 'except that one deplorable incident in connection with the outrage in Delhi'. Sir, I was present here on the 27th January when His Excellency, from his seat there, made a remarkable speech. My Hon'ble friend refers to the conciliatory policy of

*Proceedings of the Council of the Governor-General of India, 1912-13 (Vol. LI), pp. 307-9. Date of discussion — 5 March 1913.

Sir Reginald Craddock had introduced the Bill on behalf of the Government to amend the Indian Penal Code and Criminal Procedure Code — 1898. The Bill also intended to introduce a new offence, the offence of criminal conspiracy in to the criminal law of India. The Bill was referred to a Select Committee.

Digitized by srujanika@gmail.com

Lord Hardinge. I saw something more in that remarkable speech. I saw the Viceroy of India classing himself amongst the fellow-subjects of the Empire and giving expression to his love for India, and an earnest desire to raise India from her present fallen condition. But when that speech came to that part of it which referred to his sufferings during several weeks and to an appeal to us Indians to restore India to her lost fame — that part of his speech, Sir, made me hang down my head with shame. I saw the hand which was a sling — the hand which was stretched forth to give a lifting hand to India — to raise her to a higher position — had been bitten, as the hand was bitten in the fable by the snake, that tried to feed it in order to save it from starvation.

"That may be one deplorable incident, but that deplorable incident, one though it be, has a great significance. But is it a fact really that we have had only one incident since 1908. Have there not been more incidents during this interval in East Bengal? So the question is that between 1908 and this day there is no evidence to show that the state of society has so changed that there is no justification for legislation at the present day. Legislation of such a character would have been perfectly justifiable in 1908. The next question is whether this law, this Bill, which is now before this Council, is calculated to remedy the existing evil. Of course many suggestions have been made in the shape of amendments. I don't think they are in order. The only question of course (as I have been informed that I am on the Select Committee I should not like to have a sort of prophetic soliloquy on what my views are likely to be) — what form the legislation should take. This much is certain that while there should be an attempt on the part of this Council to strengthen the hands of the Legislature to adopt such measures, to pass such laws as will put down offences of this nature, at the same time it should be the part of the Legislature to see as much as possible that innocent persons should not suffer on this account. Of course it will be generally said against the Bill and it has been said that it will arm the Police with greater powers than they now possess — however great may be the power of the police — the police have not been able to bring to justice the criminals who have committed some of the most dastardly crimes in India, so that the police are powerless against a certain class of criminals, and it is really the intention of the Legislature to reach that class of criminals.

Digitized by srujanika@gmail.com

My Hon'ble friend says that these crimes form a class by themselves; my Hon'ble friend says that these criminals form a class by themselves. If they do so what is necessary is that some power should be given to some authority in order to ferret them out of their hiding-places, bring them into the light of the law Courts and send them to the place where they ought to be in order that they may be removed from surroundings where they are dangerous to society at large. The Hon'ble mover of the Resolution has referred to certain remarks made by some Judges. Be sure that if this English law is introduced in this country, or I should say, translated into this country, we shall have no doubt the safety which the remarks of English Judges always have provided in the application of this law. The remarks that he quoted from certain Judges go no further than this, that very great care should be used in the application of this law, and those safeguards can only be secured in the law Courts in the careful sifting of evidence. In the construction of the substantive law those safeguards cannot be done away with by this Council. If this Council adopts the English law, the law will certainly be interpreted here as it has been interpreted always in England. I have no recollection at the present moment but I think it was a case decided in 1891 — it was in one of the cases — a later decision — in which one English Court laid down a very learned interpretation of the law so as to safeguard the interests of persons who may be brought into the clutches of the law by malice, fraud, etc. The only point of importance in this discussion is as to whether this Bill ought to go to the High Court for its opinion. If this Bill in its provisions were of such a character that they were quite novel, that they had no existence in any Code, that they were altogether unknown, certainly it would be very desirable that such a piece of legislation should go to the High Court for their opinion as to whether it would conflict with any existing law, or whether it would conflict with any known principles of law which have been recognized through ages to safeguard the interests and safety of the people. The High Court cannot certainly be in a position to know the danger which this new development has created for society. The Hon'ble Member in charge of the Bill who introduced it, and the Hon'ble gentleman who moved the amendment, both agree that if there is a new development a new law is necessary. If it is a new development it calls for a new law, and the High Court can-

Digitized by srujanika@gmail.com

not be in a position to have any information as regards the new development — its nature, its extent, or to what extent it is a danger to society. Certainly of course it will be for the Select Committee to make such safeguards as shall prevent an abuse of the provisions of the Bill. I am sorry therefore on those grounds I cannot support the amendment."

The Hon'ble MR. MADHUSUDAN DAS*: "Sir, I do not think that at any time it is a matter of congratulation to any community or to any individual of that community to associate themselves or himself in the importation, if I may use the expression, or the expansion, of a criminal law that did not exist in the country and did not apply to it. It is not a matter of greater congratulation either to be a member of a Select Committee to which a Bill incorporating such a law is referred; because whether it be importation or expansion the necessity of the additional criminal law implies an increase of criminality, and therefore it is not a matter of congratulation to the community. Being one of the members who were in the Select Committee I did not feel myself flattered when I was listening to the remarks made by the Hon'ble Member who preceded me. I am sorry that on account of some defect (it may be in the acoustics of this Chamber or some other defect but certainly not a defect in my auricular appendages), I did not hear him as distinctly as I should have wished to do, but this much I understood him to say that the Select Committee had in it men who signed the Report without knowing what they were signing. I should think it was long, long ago that I grew beyond that stage. I saw in the Rules notified by Government for the election of Members of this Council a provision to the effect that any Member who cannot read, write or sign his name may ask another person to do it. That is actually one of the rules of the election. I did not find my way here under that rule at any rate. It has been very properly observed by the Law Member that the proceedings of the Select Committee have always been considered as confidential; they are never published. At least I know, by experience in the Bengal Council, that when I referred to a remark that had been made, or rather to the opposition which had been offered to an amendment that I had suggested, it was ruled from the

*On 18 March 1913 Das spoke during discussion on the report of the Select Committee (p. 529).

Digitized by srujanika@gmail.com

Chair that the proceedings of the Select Committee were confidential. If there is anybody who in a particular occasion like this does not like these proceedings to be characterized as confidential, it is I. I do not see that my name should be associated, humble though I am, in any proceedings of that nature, where the charge is that by some mesmeric influence over me my name got into a paper to which I was not an intelligent signatory. Sir, what was referred to the Select Committee was a Bill which was introduced before Council; that is always the case. It does not throw any light on the subject now for the discussion before this Council to refer us to a certain Bill which was so shorn by the Select Committee of the House of Commons that nothing remained but, like the Kilkenny cats, two tails, we don't know what the Bill was. We don't know what the Select Committee did; and it would be a very poor analogy, certainly not justice to the Members of the Select Committee or their doings, to refer to a Bill of a nature which is not before the Council now. When a Bill is referred to a Select Committee the Select Committee has to do with that Bill. Take this particular Bill now before us. This particular Bill refers to the word 'illegal'. 'Illegal', as defined in the Penal Code, covers cases which give cause of action in a civil Court. Would it have been within the jurisdiction or within the competence of the Select Committee to go and revise the Contract Act in order to see whether hypothetical cases which were brought before the Select Committee by certain members ought or ought not to be covered by the particular Bill that was before them? All that possibly could be discussed was discussed before the Select Committee; and certainly it is not doing justice to us, we poor members of the Select Committee — I am applying the word 'poor' to non-official members—to say that we did not do justice to the work before us, we did not try our best to safeguard the interests of the country, or that we did not do our duty to the State which had been called upon to adopt certain measures on account of certain recent and hitherto unknown developments in the country."

The Hon'ble MR. MADHUSUDAN DAS*: "Sir, when the Bill went before the Select Committee we had the word 'combine' and it was I who suggested that that word should be removed. The reasons which have been set forth by the mover of the amend-

*He continued on the same issue, same date (p. 533).

Digitized by srujanika@gmail.com

ment are that there should be certain other acts done before the stage which is called 'mental agreement' is arrived at. The law deals solely with that mental condition in which two men agree in their intention to do a certain thing. They might do a thousand other acts before they come to that point, which for convenience sake, I may call 'mental unison'. He says they might discuss, or do anything, they might discuss, they might correspond, they might travel by rail, they might whisper into each other's ears. Those are things with which the law has nothing to do. In fact we are losing sight of the real element of criminality in this. Man's intentions, Sir, are never triable.

"One of the best Judges, Sir Frederick Pollock, said 'the mind of man is not triable for (I shan't use the word though the judge used it in Court) the angel even does not know man's mind'. As long as he entertains or cherishes an intention the law cannot reach him. If I were to entertain an intention to murder a man and even go and declare to the Judge that I harbour such an intention the law cannot reach me, because the only forum before which a man's intention is triable is his conscience. I suppose many Hon'ble Members here know that the great actor Garrick said that whenever he played Richard the Third he felt as though he was a murderer, yet no Judge would have thought of hanging him so many times because he must have played Richard the Third several times. The real thing is when that man's intention is communicated to another person then he at once comes within the clutches of the law. As soon as that intention is communicated, the law calls him an abettor. When the person to whom his intention is communicated agrees with him to do the same act they are called conspirators and that becomes a conspiracy. An abettor may not agree to do the thing, and yet the abetment is punishable; but when the man abetted agrees then only it is a conspiracy. It is that which it is sought to make punishable under the law. Consequently under those circumstances really to take notice of anything that precedes that state of mind is not within the intention or the object and purview of the law before us. The Hon'ble mover has made some reference about the investigating police-officer. Which would be an easier thing for a police-officer to prove? Would it not be easier for him to say that these two persons were travelling in a carriage? That is combination. Whereas the fact of mental

Digitized by srujanika@gmail.com

agreement would be a more difficult thing for the police to prove. So the Hon'ble mover is actually losing sight of the object he has in view by proposing the amendment, which is just the one that would defeat the object he has in view. On those grounds I oppose the amendment."

The Hon'ble MR. MADHUSUDAN DAS* "I understood the Hon'ble Member to say that the word 'unlawful' was used in the Indian Penal Code and not used here, but another word 'illegal' has been substituted. That is the point. (The Hon'ble Mr. Banerjee says I am correct there.) Well, 'illegal' is a word which has been used indiscriminately in the English decisions with 'unlawful', and it so happens that the word 'illegal' is defined in the Indian law, whereas I don't know that either the word 'unlawful' or 'illegal' has been defined in the English law. The word 'unlawful' is used in the Penal Code in that very well-known section on unlawful assemblies. Are we to suppose that it is not there used as synonymous with 'illegal'? Are we to suppose that when the expression 'unlawful' is used in those sections of the Indian Penal Code it does not mean illegal? The word 'illegal' has been defined, 'unlawful' has not been defined. It comes to this — that in the Penal Code, 'illegal' and 'unlawful' are indiscriminately used.

"Then as regards malice, I think the Hon'ble mover believes that the introduction of 'malice' would be a better safeguard than has been provided for by requiring prosecutions of this nature to be proceeded against with the sanctions added in the Select Committee. Malice is a term which has not been defined anywhere. It is chameleon-like, putting on any colour. We know 'malice propense', we know 'malice aforethought', we know 'universal malice'— (that is a law term); and we know natural malice. Now, are we likely to gain by using a term when we do not know what it means? It will, it is said, throw the onus of proof on the prosecution. No doubt it does; but if my Hon'ble friend who moved the Resolution would kindly lend me the book from which he has been quoting I will show there.

"Sir, I cannot at this moment find out a passage which I searched for, but what I mean to say is this, that the onus is on the prosecution, but then we must not lose sight of the principle

*Ibid, p. 551.

Digitized by srujanika@gmail.com

of law that the law in most cases presumes malice; there is a presumption of malice. The prosecution starts with a presumption in its favour, and often in cases of this nature malice means a state of the mind, it refers really to *mensrea*. There must be a proof of the act before any inference of malice can be made from it. Now if we introduce this into a section like this which deals with conspiracy, then it means this that before you start a prosecution, before it proves any act had been done, you must show actually that there was an intention, whereas if malice is introduced, what will be the result ? An act will be proved and then the Court will be asked to presume malice, and the nature of the act itself would show whether that presumption should stand or not. Then as regards social disturbances, the Hon'ble Member has referred to *Calcutta Weekly Notes* and he referred to matches. I believe we tried our best in Select Committee to make these safety matches so that they would ignite without the consent of some Magistrate. Prosecutions cannot be started against these offences without the sanction of Government. It is only with regard to offences of a serious nature in which the police have cognizance that no sanction is necessary. I do not think, Sir, that the introduction of these words would improve the situation or disarm the police, which is so much hated."

The Hon'ble MR. MADHUSUDAN DAS*: "Sir, during the passage of this Bill through the Council there have been remarks which no doubt go to show that in some minds there is very serious apprehension of the police abusing their power, and that there is ahead very great oppression for every one of us.

"The law of conspiracy has been imported in this sense that, though there was the law of conspiracy applicable only to two sections in the Penal Code, it has now been, as it were, incorporated as a part and parcel of the Penal Code itself. It is a foreign law newly introduced, and it is natural that in a country like India it should create some degree of alarm. But we have another foreign visitor amongst us as well; and that is the anarchist. By anarchist I do not mean a person who commits a particular kind of offence. I have not certainly before my mind that class of persons who have been committing heinous crimes within the walls of a High Court in broad daylight, or people who have been committing outrages like that which was committed the other day

*Ibid, p. 592.

Digitized by srujanika@gmail.com

at Delhi; but by an anarchist I mean a person or a body of persons whose object is to set aside law, to introduce disorder into society. And law may be set aside under many circumstances; outrages might be committed, not only against the State, not only against officials, but against private individuals as well. We have had instances of crimes of the most atrocious nature, of a nature which were unknown in India.

" Sir, I cannot overlook the fact that India is a country where crimes of this nature, i.e. taking away the life of a man was considered a serious thing. Indians have such a love of life, such a respect for the lives of the others that India is the country which first produced vegetarians. India is the country which has produced Buddhists. That is the country where we have now amongst us men who really seem to think that they are performing patriotic acts if they indulge in murders and assassinations of the most atrocious kind. We have had instances of dacoities, to which reference has been made in this Council, in East Bengal, and I happen to have some figures with me which I found the other day in the columns of a newspapers — I think the *Pioneer*. I find that in 1906, there were 155 dacoities against 26 convictions; in 1907, 131 dacoities against 19 convictions; in 1908, 166 dacoities against 26 convictions; in 1909, 160 dacoities against 18 convictions; in 1910, 179 dacoities against 24 convictions; in 1911, 181 dacoities against 19 convictions. At a glance at these figures one sees that, while the number of crimes is increasing, the percentage of conviction is on the decline; and it has been said also in this chamber that there is a want of detective skill on the part of the police. Whether it be want of detective skill or it be want of some other power, and whether the absence of that power be in the hands of the police or in the hands of those who are responsible for the hands of the police or in the hands of those who are responsible for the administration of the country, the fact stares us in the face that atrocious crimes of this nature which involve loss of property, life and limb to innocent people, are committed without the offenders being brought to justice. Certainly those who are responsible for the administration of the country have not been able to answer this question 'What shall we do under the circumstances?' I fully share the feeling of shame which my Hon'ble friend Babu Surendra Nath Banerjee said he has when he hears of these things; but

Digitized by srujanika@gmail.com

then I ask myself, have I been able to help Government or those responsible for the administration of the country, to get rid of these people, though these outrages are committed against my own countrymen, my kith and kin? What have I done? That is really the thing. Two facts stand out prominently before us. They are that the Government has failed to do anything, the people have failed to do anything, to get at these criminals. We don't know where they are and consequently the time is come if they are not to be found in the broad daylight, if they hide themselves in dens, in secret places, something must be done to get at them, and the Conspiracy Bill is nothing but this. If we can't get hold of these men when they have committed overt acts, let us try if we can reach them when they are hatching their plots. Now, for instance, taking an analogy from plague, it is really a case like this: if we can't get hold of the rat when he comes out of his hole and tries to go about the house and spread infection, let us try to enter the hole and kill him there if we can. Well, whether this will succeed or not it is very difficult to say, but certainly I felt that I should not be justified (when I cannot do anything to stamp out this evil from my country) in opposing Government when those people who are responsible for the administration of the country say this is a measure they want to give a trial. I am not a lover of policemen. I have had personal experience, personal attention not of a very enduring character from both the policemen and the anarchist. The policeman tried to rob me of my character; the anarchist sent me a threatening letter saying if I did not withdraw certain remarks, which I had made in the Council chamber, my life was not mine. Well, between these two, it did not take me long to decide which was the better. We have two evils amongst us. The policeman may be an evil, but he is a necessary evil. A policeman's position reminds me of a nursery lesson. A child had a running nose and he complained to his mother 'Mamma, why has God given me a nose, that nose troubles me very often', and the mamma said 'Well, if you had not a nose you could not breathe'. Well, a policeman is a necessary evil in that sense. I have no doubt in a few minutes more this Bill will be passed. Government undertakes the responsibility to make the best use of this Bill, to stamp out the new state of things, the new criminal developments which have made their appearance in the country. In the meantime, I make an appeal to my countrymen both inside this

Digitized by srujanika@gmail.com

chamber and outside this chamber to lift up the finger of scorn against this class of people. A finger of scorn is very powerful. The soldier who will walk up to the mouth of a cannon which emits red hot balls from it boldly and courageously will shrink before the finger of scorn in society. I say let society raise up its finger of scorn, or if I may use such an expression the kick of scorn against these men until they feel that there is a kick which is as heavy as the kick of a sixteen-hand high waler."

47. Extradition (Amendment)*

The Hon'ble MR. MADHUSUDAN DAS: "Sir, I did not intend at all to associate myself with the discussion in connection with this Bill. During the discussion it has struck me that there is an assumption that the judiciary employed in the Native States is not up to the mark. Whether that is so or not, whatever may be said with regard to individual Native States, it is too broad a proposition, too general a proposition, to assume such a state of things with regard to all Native States. It has been suggested that there is a difference with regard to the safety of an accused person when he is a resident of a district, and when he is a resident of a Presidency-town. The question before the Council is not one of equalizing advantages or disadvantages. The question is really whether an accused person, when he is residing for the time being in a Presidency-town, is placed in a more disadvantageous position when there is a charge brought against him in any Native State than is any person who is a British subject and is residing in any other part of British India. We have no materials before us to assume that a Political Agent, in every instance, must be a person who is innocent of all law. As a matter of fact, Political Agents mostly are members of the Indian Civil Service, and they are appointed to these posts very often after an experience in India covering a much longer period than is the experience of a person who takes up the position or the office of Joint Magistrate. Now, Sir, a person comes and makes a statement before a Joint Magistrate accusing a person of certain offences. Let us suppose, for instance, that the person thus charged is residing in a Presidency-town at the time.

*On 25 February 1913 (p. 244).
Sir Reginald Craddock moved the Report of the Select Committee on the Bill to amend the Indian Extradition Act, 1903. This amendment proposed to specify the powers of the Presidency Magistrate acting under Section 7 of the Act as the District Magistrate of any District.

Digitized by srujanika@gmail.com

If the Joint Magistrate, on the mere statement of the complainant, is satisfied that process is issued, and if the man be a resident of a Presidency-town, he does not complain of labouring under a disadvantage. Then, Sir, why should we suppose that there is actually, as a rule, miscarriage of justice in these Native States? In doing so, perhaps we are losing sight of the fact that these Native States are to a certain extent under a kind of supervision of Government. Though it is not before this Council, or though it may not be before this Council in the form of evidence, it is well known that the judiciary of Native States are selected or appointed very often with the knowledge and oftener with the permission and consent of Government officials.

"As regards the suggestion that the Magistrate should be allowed to take such evidence as the accused may produce before him, I would submit, Sir, that an accused is as little likely to make a statement as he is likely to show an inclination to produce evidence in support of his defence. I do not think that any lawyer would advise an accused to enter into a defence before he knows what the charge against him is.

"A warrant simply goes for execution. The warrant would not mention anything further than the fact — that the man has been charged with a certain offence. The accused is not in a position to know what evidence there is before the Court to substantiate that charge, and as a matter of fact, in the ordinary state of things, there will be no evidence at that time for the prosecution before the Court. I think the accused who is advised to produce evidence for defence in that state of things would be perhaps putting a halter round his own neck.

"I should not be justified in suggesting any amendment, for I know that I would at once be told it was not in order. I first put in my appearance in this Council when this Bill was introduced for reference to the Select Committee, and considering the withering remarks that the Hon'ble Member in charge made with regard to Orissa — from where I come — my heart sank within me and I thought I should not be justified in taking any part in the discussion; but certain points have been raised, and we are assured that Government is inclined to see that there will be in future no justification for the alarm which has been raised in introducing this Bill in its present form. Let us hope, at any rate, that now that Government is in a position to know that

Digitized by srujanika@gmail.com

there is a certain amount of alarm, and also in a position to know in what direction that alarm is, and as the States which are mostly concerned in these matters are Native States, let us sincerely hope that measures will be taken not to give any occasion that would give the least justification for the alarm now expressed."

48A. Financial Statement*: Resolution Regarding Increase of Allotment for Non-recurring Grants for Education, Sanitation, etc., for Bihar and Orissa

The Hon'ble MR. MADHUSUDAN DAS: "Sir, before I proceed to move the following Resolution which stands in my name:

> 'That this Council recommends to His Excellency the Governor General in Council that the allotted amount to Bihar and Orissa under the head of non-recurring grants for education, sanitation and other beneficial purposes, be increased by five lakhs of rupees.'

I beg to be excused by the Council for offering my sincere and humble felicitations to the Hon'ble the Finance Member for the prosperity budget which he has presented. In a country like India, where the major part of the revenue comes from agriculture, which is always dependent on the mercies of the heavens, where also the sources of revenue dry up on account of social and other circumstances in other countries, the work of the Finance Member is not a very easy one, and certainly his office is not a bed of roses. When presenting the Financial Statement, the Hon'ble Member said that when he took charge of the portfolio the country was in a state of distressful scarcity. Distressful scarcity very often means feeding many mouths, and it is more distressing to the Member who holds the purse than to those perhaps who are critics outside; we also notice that the two matters which are at the present day considered most important in India, viz. education and sanitation, are receiving his anxious attention and care. It is just possible, I may not have an opportunity of meeting the Hon'ble Member before he lays down or rather makes over his portfolio to his successor; so I take this opportunity to assure him that he will carry with him the gratitude of the millions whom he has tried to educate and save from starvation."

*Date 7 March 1913 (p. 372).

Digitized by srujanika@gmail.com

The Hon'ble MR. MADHUSUDAN DAS*: 'Sir, to proceed to the Resolution. When there are several children whose comforts have to be provided for, and the *pater familias* has a sum of money which he wants to distribute among his children in order to provide for their comforts, of course all the children plead for their share. Very often the grown-up sisters plead with eloquence, with power, but if there is a baby in the family it casts a look at the father and at the grown-up sisters.

"It looks at the father and this look means, 'I am not responsible if I was born late; I do not know what my needs are; you ought to know what it has cost you to educate my sisters and you ought to provide for me.' Looking at the sisters, it says, 'I understand all your eloquent pleading, that is due to the education for which you ought to be thankful to the father, will you please let me have my chance, let me have the same care and attention which you had in your education and bringing up.' This Bihar and Orissa is a baby province, it was born of the benevolent wishes of His Excellency the Viceroy and the Members of the Executive Council. The memorable despatch of 25th August 1911, is signed by them. They are all here. They are the fathers of this baby and to them I plead on behalf of the baby. It is unusual to have more than one father, but it is an advantage to have several fathers under the present circumstances, when I plead on behalf of this baby.

"The above despatch says that the new province was created to give it a fair opportunity for development. The people of the three sub-provinces, Bihar, Orissa and Chotanagpur, cannot have a fair share of the attention of Government unless the Lieutenant-Governor resides a part of the year in each sub-province. In a durbar held at Cuttack, Sir Charles Bayley in his speech said that he had received injunctions to spend a part of the year at Puri. The only part of the year which the Lieutenant-Governor can spend at Puri are the summer months, but that is the time when the great Car festival of Juggernath comes on. The influx of pilgrims is very large and, owing to the unsatisfactory sanitation of the place, cholera is an annual visitor.

"Improved sanitation is necessary to make the residence of the Lieutenant-Governor safe. Government is bound to protect the lives of its high officials from epidemics. But the bene-

*Ibid, p. 373.

Digitized by srujanika@gmail.com

fits of improved sanitation will be extended to the pilgrims. They hail from all parts of India, from Cape Comorin to the Himalaya mountains. Consequently improved sanitation in a place like Puri will be a benefit to all the provinces of India. That improved sanitation under the supervision of an expert in sanitation can stop the recurrence of cholera was demonstrated early in the nineties. There was an unusual influx of pilgrims during one year owing to an especially auspicious festival, but Dr. Banks who had made a special study of the science of sanitation managed to prevent the recurrence of the epidemic. There was not a single case of cholera. Humane considerations induced Government to stop self-immolation under the wheels of Juggernath Car. Humanitarian considerations demand that the lives of the pilgrims should be saved from the cruel jaws of cholera.

"Government cannot stop people going on pilgrimage, any more than Government can stop the influx of men to Calcutta. Men go to Calcutta on business, to make money; they go to Puri from religious motives. If the Government could spend crores to improve the sanitation of Calcutta, surely they ought not to grudge a few lakhs, and that out of surplus money now in their hands to save the lives of men who go to Puri not to serve mammon but to serve God. I am not a worshipper of Juggernath, but I owe it to my Hindu brethren of India to plead on their behalf, and that to save their lives. Government owes a duty to Juggernath. When the British Army from Madras was in a narrow pass in the vicinity of the Chilka Lake, Hunter in his history of Orissa says, a few hundred men would have successfully arrested its progress if they chose to do so; but instead of that, the priests of the Temple of Juggernath invited the Army to take possession of the Temple. The Temple had always been the key to the province. The subsequent peaceful occupation of Orissa was due to this friendly attitude of the priests of Juggernath. After that the British Government in the early days of the East India Company managed the temple and derived a surplus revenue from that source. Under the present policy of religious non-interference a revenue from such a source will not be acceptable to Government. The allotment of a portion of the surplus in the hand of the Government will give satisfaction to the general Hindu public of the present day and the future historian of Orissa would refer to it as a noble act on the part of a

Digitized by srujanika@gmail.com

Christian Government to make such reperation, as was possible under the circumstances, for errors of the past. Fortunately there has not been up to this day an outbreak of plague in Puri. If the sanitation of the place is not improved in time, plague will invade it at no distant date. If plague once breaks out in Puri, the responsibilities of Government will be enormous. To enforce the ordinary rules of segregation will be very difficult. Any attempt in that direction will be interpreted as interference with religion. Puri with plague in it will be a centre for the spread of the disease to all parts of India. In the interests of the whole of India, in the interests of the Government officials, it is necessary that a large sum should be made over to the Government of Bihar and Orissa for the better sanitation of this town.

"I would bring it to the notice of the Government that Gaya is another place of pilgrim resort in the new province. Thousands visit the place. Its sanitary condition is anything but satisfactory.

"The seat of the new Government, Patna, is plague-stricken. A high Government official, whose headquarters is in Bankipore, told me that there is no road to take one from Bankipore to Patna, though Bankipore is the place where the Lieutenant-Governor now resides and the officers have their canvas residences.

"The baby province requires more attention to its sanitation than the adult provinces. It cannot give a list of its requirements for it has not lived long enough to study them or to draw up a scheme. But every father knows that the wants of a baby cost more than those of the adult members, and provision has to be made by a contingent forecast of the further requirements."

48B. Resolution Regarding Increase of Allotment of Recurring Grants for Promotion of Education and Improvement of Sanitation for Bihar and Orissa

The Hon'ble MR. MADHUSUDAN DAS moved the following Resolution:*

'That this Council recommends to His Excellency the Governor General in Council that the amount allotted to Bihar and

*On 7 March 1913 (p. 375).

Digitized by srujanika@gmail.com

Orissa in the distribution of the recurring grants for the promotion of education and the improvement of sanitation be increased by five lakhs of rupees.'

He said: " The subject-matter of this Resolution is to be found in paragraphs 17 and 18 of the Financial Statement. The total amount of recurring grants allotted to Bihar and Orissa is 10·53 lakhs.

" The recurring grants for education ought to be determined by considerations other than the urban population and lists of schemes ready and waiting for funds.

" The urban population is not a safe guide in determining the demand for education. The urban population is made up to a large extent of business men and their employees and servants — men who resort to towns and cities to earn, not to learn. The population of a town depends on the nature and extent of business done there. In a city like Cawnpore, which commands an extensive business in the manufacture of leather and leather goods, the population would be a deceptive index to the demands of education, for a very large portion of the population either do not want to educate their children, or come to the place to earn their living, leaving their children in their villages.

" There are a very large number of Uryas in Calcutta. There are about a lakh of them in Calcutta and its vicinity. If an Urya Primary School were opened there, I do not think even fifty students will be forthcoming to join it; the reason for this being that these men leave their children at home and go to Calcutta to earn a living.

" As regards ready schemes to go by in determining the needs for education the province of Bihar and Orissa was created the other day, it is a new province, the Government is new; the head of the Government has hardly a place to live in; the Secretaries and high officials are moving about like a nomadic people; they have not had time and opportunities to study the wants of the province in matters of education and sanitation. Under these exceptional circumstances it would not be fair to judge the wants of the province by the number of schemes ready for execution.

" We know and believe that this Government's object in separating Bihar and Orissa from Bengal was to ensure to these sub-

Digitized by srujanika@gmail.com

provinces a large share of the attention of Government than they received under the old administration. In order to give effect to this noble object, it would not by any means be out of place to take a cursory view of the extent to which the interests of Orissa were neglected in the past.

"Besides the importance which the past has in its connection with the present and future, the past might show reasons for considerations of a compensating character.

"Orissa stands out prominent in the early history of East India Company's connection with Bengal. Their first factories were built in Orissa. The first two Englishmen who came to Bengal in 1632 came from Orissa, and they were supplied with an Urya escort for their safe journey.

"In the beginning of the nineteenth century the British occupation of Orissa was achieved at the invitation of the priests of the great temple of Juggernath, a singular testimony from the residents of the holy land of Hindus, to their faith in British administration and their hope to participate in its advantages: and this faith they have cherished unabated to this day. But as regards their hopes to participate in the advantages of British administration, alas, they were blighted.

"Orissa was given away to Bengal as its partner; she found in Bengal a partner who demanded the whole absorbing attention of the paternal Government, leaving Orissa in an almost solitary confinement in the dark and cold regions of the zenana; Bengal waxed strong and fat. The endowment of a permanent settlement made Bengal rich. A similar endowment was promised to Orissa. Some promises have been compared to a pie crust. The crust was of no value when people came to know the nature of the contents within. This discovery led to the breaking of the crust. Orissa was completely lost sight of by the pateral Government. How dark the ignorance of Government was with regard to the affairs of Orissa a reference to the devastating results of the great famine of Orissa will show. Over a million of its population died of starvation while the Government at its headquarters in Calcutta remained in blissful ignorance of this dreadful state of things. I could give a long list of the injustice to Orissa under the Bengal Government, but I shall conclude this mournful part of Orissa's past history by remarking that it was only in

Digitized by srujanika@gmail.com

1911 that the Bengal Government discovered that the Bengal land-law did not suit the peculiar agrarian conditions of Orissa, and that Orissa should have a special agrarian law to suit its peculiar local condition.

"What a discovery — after an administration of the country for over a century.

"*Ignorance* on the part of Government extending over nearly a century has crystallized into a strong *prejudice*. This is unfortunate and embarrassing to me being the first Urya who found his way to this Chamber. I noticed a remarkable instance of this prejudice born of sheer ignorance in the remarks made the other day by the Hon'ble Mr. Clark. The Hon'ble Member said there are rogues probably in the arcadian groves of Orissa. Had the Hon'ble Member acquainted himself with facts showing to what extent and with what result the Indian Company's Act has been worked in Orissa, he would have come to a different conclusion. No doubt there are rogue elephants in the jungles of Orissa. If the Hon'ble Member ever visits those arcadian groves, for on a sporting excursion he may find his life in danger from these rogue elephants, but the contents of his pockets will be safer than they would be in Piccadilly Circus.

"As regards *education* there was still greater injustice. Probably it was thought proper to enforce the zenana rules and the light of foreign education was shut out from Orissa. The first Urya young man (I can hardly believe I was ever young) who cherished the idea of a University education had to go to Calcutta, a journey of nearly three weeks.

"Long after Bengal had made gigantic progress in Western education the chance of high education on a very limited scale was given to Orissa. The college was ill-equipped. Cheap management was the main object in view. For a few years Urya students were given an opportunity to study law. There was no law college, but a cheap arrangement was made by which one of the Urya pleaders undertook to teach all the classes.

"Government would not pay a farthing. The lecturer was paid from the fees realized. But nevertheless the result was very creditable.

"The students from these law classes not only passed but secured distinguished positions among the successful candidates

Digitized by srujanika@gmail.com

and some time topped the whole list of successful candidates. But subsequently the privilege was taken away from them, and now the Urya students have to go to Calcutta; but this arrangement is not popular with some parents They do not like young men to be away from parental influence. Last year's results of the Calcutta University in the Intermediate and Bachelor Degree examinations will show that Urya boys occupy high places among the successful candidates.

"Let us take *female education*. Government sent a Bengal lady as Government scholar to England to study training there. Government would not spend a pice for the Urya girls. But nevertheless Orissa sent a young lady to England with the same object. On her return from England she started a girls' school in 1908. This was maintained by private subscription which amounted to several thousand rupees, while Government paid only a grant-in-aid. The school teaches up to the Matriculation standard and girls have passed Matriculation from the school.

"Even in the city of Calcutta the oldest girls' school known as Bethune School is supported even now entirely by Government, and Government pays a much larger sum than they ever paid as grant-in-aid to the school in Orissa.

"Let us now take the *percentage* of literate population in the several provinces. The census figures of 1901 show that Orissa has the highest percentage of literate population in India. The figures are as follows:

These figures show the number per 10,000 persons (of both sexes) over 15 years.

Bengal proper	938
Bihar	503
United Provinces	426
Punjab	526
Madras	903
Bombay	838
Orissa	1,019

"The facts given above furnish sufficient data for a reply to the following question:

"Has Orissa made a proper use of the small educational advantages granted to her? The parable of the talents does not

Digitized by srujanika@gmail.com

lay down a principle exclusively applicable to the relation of master and servant. It applies with great force to the relation between the paterfamilias and his children. To the several races of India the Viceroy occupies the position of a father. May it not be justly said of Orissa 'thou hast been faithful over a few things, I will make thee ruler over many things'.

"The benefits of education should not be judged by the number of graduates which the colleges turn out. There is mal-assimilation in education as much as there is in the supply of nourishment to the body. Indigestion in the brain is more dangerous than indigestion in the stomach. The latter kills the sufferer only, whereas the former is a source of danger to society. The costs of treatment of the latter (indigestion of food) are borne by the sufferer, but ill-digested knowledge produces moral and political epidemics which have cost the State immense sums. There is another consideration which should influence Government in judging the claims of Bihar and Orissa for additional grants for education. Orissa is a temporarily settled area. That is a strong reason for preferring the claims of Orissa to provinces which enjoy the boon of permanent settlement. A permanent settlement produces a rich aristocracy, who should feel their obligations to the tenantry. The increasing prosperity of the tenantry arising from rise in prices and improved method of agriculture is shared by their landlords. No part of it comes to the State. But in a temporarily settled area, Government have their share in the rising prosperity of the country. It is but just that in the matter of the mass education the ryot who contributes to the Imperial Exchequer in a gradual ascending scale should have greater share in the distribution of the funds in the hands of Government available for education and sanitation.

"One more matter and I have done.

"I beg to be pardoned for offering a remark on the educational policy of Government: not generally, but so far as it concerns the noble anxiety of Government to develop *technical education*. We all admire and are thankful to Government for spending large sums of money in sending young men to Europe to study the details of particular industries. The public have also liberally subscribed, lent their sympathy and worked on the same line with the same object in view. But what has been the result ?

Digitized by srujanika@gmail.com

"I knew a young man who studied agriculture in England at Government expense, but he worked as a Magistrate and retired as a Sessions Judge. I know other Government scholars who became experts in agriculture, but are working now as Deputy Magistrates. I know a young man who learned the sugar industry as it exists in Japan; but he is now a Deputy Collector in a Native State. Instances might be multiplied. The mistake lies in beginning at the wrong end. Industries in Europe are managed on organized principles. The governing principle at the bottom of organized industry is division of labour. Division of labour secures finish, saves time and necessarily effects cheapness; and cheapness is an important consideration which all anxious to secure success in a competition with Europe should keep before their eyes. During ages in the past history of India, the caste system has developed a contrary principle, a principle which operates as a great obstacle to the introduction of division of labour. The various handicrafts rest on the basis of caste. The same man does a work in all its stages from start to finish. Consequently there is no division of labour in the sense it is adopted in the factories in Europe.

"*The present need of the country* is to educate the eye and the hand by means of such primary education which will impress on the mind of the student the advantages of skilled labour, of division of labour, of the value of time and of the value of carefulness in handling machines. Before skilled labour is available, before the country has its sufficient supply of literate workmen, all efforts to transplant the industries of Europe must fail. This embodies the result of my practical experience extending over several years.

"Orissa is a province especially suited for primary education on the above lines. The ancient architecture of Orissa shows the Uryas' capabilities in the direction. But alas the hand that carved out of rough sand stones the beautiful figures in the temple of Bhubaneswar (figures referring to which a Lieutenant-Governor once remarked that if he had the time he would gaze on those figures for days), the hand which carved those figures now drives the plough for two annas daily wages. Can't anything be done to restore to that hand its original value?

"The amount mentioned in the Resolution is five lakhs. I leave it to the discretion of Government to increase the present

Digitized by srujanika@gmail.com

allotment by such amount that can be spared without injustice to other provinces. I shall be satisfied if I have succeeded in convincing Government that in the past injustice has been done to Orissa. I shall then consider the increase as an earnest of the Government's desire to accord a more sympathetic audience to the claims of Orissa in the future."

49. Resolution Regarding Separation of Judicial and Executive Functions*

The Hon'ble MR. MADHUSUDAN DAS: "Sir, it is perhaps absolutely too late at the present stage of this question to bring out facts and figures or the personal experience of any person in support of the desirability of this proposition. It has been before the public for over a century and, wherever one likes to go, he hears the cry for the separation of the judicial and executive functions surging round him. The Hon'ble Mr. Banerjea in his speech has given several extracts from the opinions of Official Members of this Council and from gentlemen of great judicial experience who had been in positions such as Judges of the High Court — who had been in positions to form valuable opinion as to whether the combination of these two functions has worked satisfactorily or unsatisfactorily. There has been, Sir, enough material before the Government to come to a decision. If those opinions are not sufficient to induce the Government to accept the desirability of the popular desire for having a separation, it will be far better for Government to say 'No we do not consider this sufficient'. If this mass of evidence is not sufficient to enable Government to come to a definite conclusion, Government would be justified to take such measures, with the knowledge of the public, as they consider necessary to come to a definite conclusion on the subject. But from the answer that has been given by the Hon'ble Home Member, I am perfectly unable to understand the present position of Government. First of all his reply was that he wanted to meet the question from a

*On 7 March 1913 (p. 396).

Mr. Surendra Nath Banerjea had moved this Resolution: "That this Council recommends to the Governor General in Council that the grants made to Local Governments be increased by such allotments as the Government of India may think fit with a view to enable them to carry out the experiment of separation of judicial and executive functions in the administration of criminal justice in areas to be selected by them with the approval of the Government of India".

Digitized by srujanika@gmail.com

technical point of view as simply a financial question; that there was no scheme, cut and dry, before him, that there was nothing to show how much money was to be allotted, consequently he was not in a position to accept the Resolution. An answer of that character would lead one to think that what Government was waiting for was a definite scheme; that the principle had been accepted by Government and it was only for want of definite figures and a definitely formulated scheme, that Government could not accept this resolution. But when the Hon'ble Home Member replied to the question put by the Hon'ble Mr. Vijiaragavachariar he said the question of principle and the question of the details to be carried out were so mixed up that it was impossible to give a reply. That means the principle has not been accepted yet. It may perhaps be due to a particular lack of intelligence in me, but I cannot understand, Sir, how it is difficult to dissociate the principle from the scheme. The only possible way in which the difficulty could arise would be from the fact that the scheme having been accepted there are not funds enough at the disposal of Government to carry out that scheme. Then the question assumes this form. If a principle has been accepted by Government, Government is bound to find funds for carrying out the scheme; or if the funds necessary for carrying out the scheme are so exorbitantly high that it is beyond the power of the Government of India to carry out that scheme, then the public ought to be satisfied by a definite answer to that effect: 'that here is the sum required for carrying out the scheme and it is beyond the power of the Government of India to carry it out'. Then, if necessary, fresh taxation might be made. There has been such a cry for this throughout the country that I should not be surprised if the Government of India were in need of fresh taxation; the people would be willing to pay a new tax for carrying this out.

"But the position of the Government of India has not been definitely explained. Certainly, Sir, after these clear enunciations and announcements of the opinions of men and officials in very high and responsible positions, and this continuous cry of the people for this separation extending over such a long period, the public have at least a right to know the exact position of the Government with regard to this question. I have been very much disappointed, and I am sure my disappointment has been

Digitized by srujanika@gmail.com

shared by most of the non-official members, that the reply from the Hon'ble Home Member, considering the gravity of this important question and the period for which it has been before the public, has not been as definite and as satisfactory as it ought to be.

" If the Government of India really are not prepared to accept the principle, the people should be informed that they are not so prepared, and allow the people to take such action as they may be best advised to take under the circumstances."

50. Resolution Regarding Extension of Primary Education in India*

The Hon'ble MR. MADHUSUDAN DAS: " Sir, I rise to associate myself with the motion by the Hon'ble Mr. Gokhale. The Government Resolution which has just been published mentions His Gracious Majesty's name, and it is also said there that it was in furtherance and pursuance of His Gracious Majesty's wish that the Government adopted this Resolution. During His Majesty's visit to this country there was evidence, unmistakably clear evidence, to show the feelings of the people towards their King-Emperor. The Indian has been brought up and accustomed to look upon his King as God's Vicegerent on earth. The Resolution associates the programme laid down with the King's wish. It is a Resolution which touches the interests of hundreds of millions, and especially the mass population. I have not the slightest doubt that the information with regard to mass education contained in that Resolution will soon filter down to the masses, and it will raise very high hopes of an improved state of things amongst the poor dumb millions, and this hope will associate itself naturally in the minds of these dumb millions with their ideas of divinity which they attach to their King-Emperor. Those being the circumstances under which the Resolution has

*On 25 February 1913 (p. 261).
Gopal Krishna Gokhale had moved this Resolution regarding extension of primary education in India.
" This Council recommends to the Governor General in Council that all papers including correspondence between the Government of India and Provincial Governments and Administration on the other, relating to the scheme outlined by the Under Secretary of State for India in the House of Commons last July, on the subject of the extension of Primary Education in this country, be laid on the table of the Council."

Digitized by srujanika@gmail.com

been published, I think it is very desirable that the people should know exactly how Government wishes to give effect to the promises made in this Resolution. I saw this Resolution in the train. I must confess that I have not been able to study it with the attention which the Hon'ble mover has devoted to it and which perhaps is characteristic of his public life, but this much is clear that it is a Resolution which requires actually a definite statement on the part of Government. I have just learnt from the Hon'ble mover's speech that expressions such as 'at no distant date', and other similar expressions have been used with reference to the time when the Resolution will be given effect to.

"Time, Sir, always flies and carries on its wings even Government officials from their offices. Consequently it would be much better if we did not depend upon time, but had dates and years to depend upon. Mortal as we are, we like to have more definite things. Then Sir, Education is a subject which embraces the most important questions that are of interest to a foreign Government. Sir, very often measures started with the most benevolent motives by Government are misunderstood by the common masses, and this is simply due to their ignorance; and unless this darkness of ignorance is penetrated by the light of knowledge, I fear there will not be that co-operation between the Government and the people which is certainly desirable, most desirable and essential, in the interests of good government — in the interests both of the Government and of the people. If anything is likely to bridge the gulf between the two races or nations, and if India is ever to realize fully the benevolent intentions of a foreign Government, it must be at a time when mass education has permeated throughout this land; and consequently, being such an important matter as this, it ought not to be left indefinite, and the people ought to be in a position to know when their hopes are actually to be realized. As it is, it would be much better if the Hon'ble Member, or if Government would tell us (and it is a very happy circumstance that the Hon'ble Member in charge of the Revenue and the Hon'ble Member in charge of Education are sitting together and consequently it can be easily settled) how much of the local revenue can be earmarked for this purpose. On these grounds I beg to support the motion."

Digitized by srujanika@gmail.com

51. Resolution Regarding Opening of a Port between Chandbali and Short's Island*

The Hon'ble MR. MADHUSUDAN DAS: "Sir, in the despatch in which it was first proposed to create the new province of Bihar and Orissa there is mention of the intention of Government to give a port to the new province. There are, at present, three ports in Orissa: there is Puri, False Point and Chandbali, but all these three ports are maintained by Government at a loss. Puri is nominally a port, because it is very shallow and steamers cannot approach it within a distance of some miles. It can never serve the commercial purpose which a port is naturally meant to do. At present it imports only diseases and exports the sins of the Hindus who go and bathe there. Doctors consider it a sanatorium and recommend Puri to most patients and all that we import are microbes, and they will never pay Government. False Point was used in former days very largely, but unfortunately the sea is receding there towards the east now. As a matter of fact it was used in those days when there was no other communication between Orissa and the outside world, and the communication between the busy markets of trade in the interior of the province — between these places and False Point — is by creeks and channels over which it is very tedious and costly to travel, and they are by no means attractive from a commercial point of view.

"In rough weather steamers cannot go near False Point; they have to anchor at a very considerable distance as it is impossible for these steamers to unload and load their contents there. Consequently, for all practical and all commercial purposes, the port does not exist. The only port that is now used is Chandbali; but within the last few years the river there, near the port, has silted up. It was always a narrow river, and is used only by small steamers which ply between that port and Calcutta. It is not a place where a sea-going vessel would go; but that has become worse now within the last few years as the river has silted up.

"Orissa exports a large quantity of rice. A good deal of it is exported to Ceylon, and a large portion also to Mauritius. Mauritius sends sugar in return to Orissa. At present all these things which are used for export and import have to come to Calcutta,

*On 8 March 1913 (p. 419).

Digitized by srujanika@gmail.com

and then they have to be re-booked either by steamer to Chandbali or by railway to different parts of the province. There is a large export trade in hides. These hides are exported to Europe and to foreign countries. At present they go by Chandbali to Calcutta or by railway to Calcutta, and then they are re-shipped by sea-going vessels to foreign countries. Jute is a growing — (I do not know what to call it) — agricultural pursuit or by what name — it is growing very much. At the last revenue settlement of the province, as far as I remember, there were only a few hundred acres of land which were used for jute cultivation; but within the last few years the area has increased by leaps and bounds, and now it is several thousands. All this jute is for export to foreign countries. As it is, it comes to Calcutta now, and then it is exported to foreign countries. It is a remarkable fact that, notwithstanding that we have so many coalmines in India, Japan can supply coal cheaper than we can, the reason for that being merely greater facilities of transportation. There are coalmines in Orissa which have never been worked, simply because they are now in places which are inaccessible. The country has not been worked up — I mean to say, opened up; capital is wanting, enterprise is wanting, and the present state of the country is not inviting either to capital or to enterprise. Kerosene oil is a thing which is used in every household, and of course it comes from abroad. It is now carried from Calcutta by railway, and brought to Calcutta by steamer, by some of those steamers, which are called tramps. They go about coasting and unloading their contents at places where they can find a place to unload. Now any steamer coming through the Bay of Bengal to Calcutta must pass through that part of the sea which is near the mouth of the Dhamra. The route to Calcutta, besides being circuitous, is expensive on two grounds: (1) because the Hughly river being what it is there is the cost of the pilot; (2) sailing vessels cannot come, so they have to be towed by steamers, and that means additional expenditure. If there were a port near Dhamra or somewhere in the neighbourhood of it, where vessels could safely anchor, and load and unload, there would be a great saving.

"The iron works of Kalamati will soon require a port for the export of its contents. It has been considered the second largest factory in Asia. It has just been opened, but it has a great future before it. It is an immense organization. I have not got the

Digitized by srujanika@gmail.com

figures except for 1905-6, and they show that Chandbali exported things to the value of about 34 lakhs, and imported about 29 lakhs, and the passenger traffic was about 80,000. Of course it should be taken into consideration that Chandbali is not connected by railway or any other means of communication, not even by decent roads, with the interior of the country; and therefore my Resolution is that, if a railway line be constructed connecting Bhudruck with Chandbali or any other place where a suitable site could be had for use as a port, the country will be opened up, commerce will benefit and the public will be benefited by it.

"Sir, T. Wynne, in just making his remarks on the budget, enlightened me on the policy of the Government, and that policy is that feeder railway lines are patronized by Government in some form, if outside capital is raised under certain conditions. Chandbali from Bhudruck is about 30 miles, and if the site selected for a new port be a few miles more, I don't think it will exceed 40 or 45 miles. That would be approximately the length of the railway line. There is no large river which requires bridging. In putting these facts before Council and the Government in this Resolution I don't suppose that Government expect me to specify whether it would be profitable to the country and to the investor. On the contrary I do sincerely hope that, in taking into consideration this Resolution, which is more in the nature of a suggestion, the Government would not expect that I would put before them a scheme which was cut-and-dry and give them facts and figures to enable them to give me a definite reply. Of course first of all a site has to be found; that may be done by taking soundings of the river, a survey of the country has to be made and statistics gathered. I sincerely hope that Government would not expect that non-official members would go about and give them sounding of the river unless they expect them to sink in debts or be drowned in the river. All that I expect is to hear it is the intention of Government to develop the resources of the country by the supply of a port. I need not trouble the Council with the ancient history of Orissa, which, if referred to, will show that Orissa had several ports to carry on trade with foreign countries long before the advent of the British Government. In putting this Resolution before the Council, I wish it to be clearly understood that I do not wish Government to understand me to say that I am asking Government to commit itself to any site. I

Digitized by srujanika@gmail.com

should in fact withdraw the Resolution if I received an assurance from Government that it is the intention of Government to take steps in the near future to fulfil the promise contained in the memorable despatch.

I beg to move the Resolution that stands in my name, namely:

'That this Council recommends to the Governor General in Council that necessary measures be taken to find out a suitable place between the present port of Chandbali and the vicinity of Short's Island which may with necessary improvements be used as a port by sea-going vessels, and that the new port be connected with the Bhudruck Station on the Bengal Nagpur Railway by a new railway line.'

52. Resolution Regarding Construction of a New Railway Connecting Orissa, Chotanagpur and Patna*

The Hon'ble MR. MADHUSUDAN DAS: "Sir, the next Resolution that I desire to move is:

'That this Council recommends to the Governor General in Council that necessary measures be adopted for the construction of a new railway line to improve the communication between Orissa, Chotanagpur and Patna, the capital of the new Province of Bihar and Orissa.'

"Before I proceed, Sir, I beg to submit that, perhaps my defective knowledge of English or something else has caused me to make a mistake. I do not mean a single line of railway. What I mean to propose is the opening up of the country by railway communications, so that different parts of the Province may be linked up by several lines instead of there being only one line. Of course the Resolution, as it stands, might be misunderstood: I am sorry for it but that is what I mean. Of course I need not say much — in fact, I need not say anything — as regards the usefulness of railways in opening up the resources of a country. In the speech made by the Hon'ble Finance Member he spoke of the value of railways in the following terms: 'I recognize fully their immense significance as an instrument of general progress,

*On 8 March 1913 (p. 422).

Digitized by srujanika@gmail.com

their necessity for the development of trade, their growing and indeed momentous importance to the finances of India.' Well they are not only useful to the people; they are useful also to Government. Not to open up a country is to keep the people in confinement, shutting out the light of heaven from them. Inhalation and exhalation are very necessary in human existence. We perform them every moment, and we could not exist for a moment without these processes; and what these processes are to the body, import and export are to a country. With inhalation we take in what we want, and with exhalation we send out what we do not want. So what we want we import: What we do not want we export. Just as a human being cannot live without these necessary processes, so a country cannot prosper without export and import. And not only do railways promote trade, but they serve the purpose of circulation; and what circulation of blood is to the system, that railways are to the prosperity and growth of a country. If a part of the body does not share in the circulation, of course that part suffers from atrophy or paralysis; so also if the two parts of a country are not connected by communication, the result is that one part must suffer. I am not pleading, Sir, for the baby Province, because all its fathers have conspired to throw it overboard; if opened out its resources will improve, and that is certainly a sufficient inducement to Government. We know that the Feudatory States of Orissa have not been touched. We know also that there are mines there. I was very glad to notice from the speech made by the Hon'ble Sir T. Wynne that some of the Chiefs of India have come forward with large sums to improve railway communications in their States. If that part of the country be opened up, I have no doubt that the Chiefs will contribute, at least so far as that portion of the railway line which lies within their territories is concerned. I am certain they would guarantee a certain percentage of dividend on the capital spent on that portion of the line which would pass through their States.

"There are many things there, for instance coal. Sir T. Wynne was pleased to say that the coal found there was not fit for export. As far as my information goes, the boring has been done only to a certain depth, but I was told by a person who is supposed to be an expert in such matters (I myself do not profess to understand these things) that if we bore down lower, better coal

Digitized by srujanika@gmail.com

will be found. Of course I am no authority on this subject, but then there are other things there — minerals for example — which may be of use and which will certainly find a market in Europe, Japan and places like that. To develop these resources would go a long way towards developing the sources of revenue to Government.

"Of course, Sir, the Member in charge will kindly understand that I do not ask Government in this Resolution to accept any particular line, but to give a general assurance that Government will do what is necessary to open up the parts of the country; and I may mention here that Orissa was the last in railway exploiting, if I may use such an expression. It was only in 1901 that railways were, for the first time, introduced into the Province, and I am quite certain I can say that so far as the railway line between Howrah and Puri is concerned there are very few lines in India which pay so well as that line.

"I heard yesterday that there was a large scheme before the Government of India to make certain improvements of a sanitary character in the resorts of pilgrimage, and the new Province has two places of remarkable interest, Gaya and Puri, which are resorted to by a very large number of pilgrims. They are a great source of income to the railway, and the Bengal Nagpur Railway I suppose derives a large income from them. But I do not know whether Sir T. R. Wynne has seen sometimes, during the car festivals, how pilgrims are packed, not in carriages, but in wagons, meant not for cattle, but for goods. Cattle are far better treated. On the continent I have seen cattle taken by rail; they are taken to be slaughtered but there is more humanity shown towards them.

"I may mention here that for years past we have heard of a line connecting Sambalpur with Cuttack, or some place in the vicinity. I understand that the line has been surveyed; that ought to open up that part of the country, and I am sure it will run through some of the Feudatory States, but nothing has been done in the matter.

"I mention this and I also beg to mention that, if I am favoured with a sympathetic reply from Government that the Government have these ideas before them, and in the near future, as opportunity offers efforts will be made to improve the railway

Digitized by srujanika@gmail.com

communication in the Province, I shall withdraw the Resolution with pleasure."*

53. Resolution Regarding Loss of Opium Revenue†

The Hon'ble MR. MADHUSUDAN DAS: " Sir, as I read the Resolution, the Hon'ble mover did not actually specify what measures should be adopted in order to improve the financial position of India; nor did he confine his remarks actually only to the financial situation. He went further than that. He pointed out that financial gain is not the only consideration. He pointed out that for the growth and development of indigenous industries in this country some sort of protection is necessary. There has been within the last few years a considerable awakening throughout the length and breadth of India in the matter of industrial improvement. We are thankful that Government has not ignored its share of responsibility in this direction. Too much stress cannot be laid upon the importance of industrial development in this country. There is already too much pressure on land; population is growing, but lands are not growing, and it is not possible for any Government on earth to make the yield of agriculture less precarious than it has always been and will ever be. Government cannot command the heavens, nor can it provide a system of irrigation which will make every acre of land in this vast country irrigable. Consequently the only salvation of India lies in the development of her industries. I do not believe, Sir, that the development of indigenous industries means in this country just what it means in a self-governing country, where industries grow in a slow progressive manner in response to the demands of the people and demand and supply are

*On 17 March 1913 (p. 460).
Mr. T. R. Wynne made a sympathetic observation over the claims of Orissa. He said, " I fully appreciate the claim that the new Province makes for having more railways made to develop it and I am sure the Government will not lose sight of this claim and when money is available the opportunity will be taken to construct lines to open up that part of the Province which most required them. "

†Mr. Gangadhar Chitnavis had moved:
" That this Council recommends to the Governor General in Council the desirability in view of the loss of opium revenue, of considering financial measures for strengthening the resources of the Government, with special reference to the possibility of increasing the revenue under a system of preferential tariffs with the United Kingdom and the Colonies. "

Digitized by srujanika@gmail.com

regulated by the law of evolution. But here, with the contact of England with India, there was actually a sleeping sickness overtaking industrial India. England and other foreign countries exported articles which contributed to the comforts of life, which recommended themselves on account of their cheapness and better finish; a new light dazzled the Indian eye and foreign articles poured in. A sleeping sickness, if I may say so, overtook industrial India, and now that she rises from this sleeping sickness, she finds her industrial hands are paralysed, and the artisan cannot compete with the iron hand of Europe and other countries. The slow hand of the artisan cannot keep pace with the machine; and the real state of things is that India is awakening to a sense of her duty in this particular matter after the devastating and prostrating effect of a revolution. And therefore in the present circumstances of the country, we need some sort of protection. I know that the very idea if protection of any kind seems ridiculous to the English mind. The Englishman is not accustomed to seek any kind of protection. The Englishman, living in a canvas house, considers that his castle. But then we Indians have been long accustomed to have our most precious things within walls of the zenana. We are accustomed to walls, and a tariff protection wall would admirably suit for us. Sir, it is very opportune that Sir Gangadhar should have thought proper to move this Resolution just when we have before us the loss to Indian revenue on account of the stoppage of the transit of opium into China. That was no doubt in furtherance of the humanitarian and moral sentiment of England — a sentiment which we none the less admire. It is quite in keeping with the noble mission of England in the world — a mission which has always been to raise peoples and nations from the dark valley of adversity to the sunlit summits of prosperity. But then we Indians were not consulted about it; and if, on account of the loss of opium revenue, there is need for fresh taxation, the burden of that taxation will fall upon Indians, who do not up to this day understand what this opium business was, why it was stopped, and what this stoppage means in the shape of loss. It is not my intention to present to this Council a balance-sheet of loss and profit between the two countries — England and India — arising out of the past commercial relations between the two nations; but I may safely make this bare statement — a statement of fact which will be noticed by any observer, or even a cursory

Digitized by srujanika@gmail.com

reader — of the past history of the commercial relations of the two countries.

" Sir, India has not gained commercially by her contact with England. All that we ask for is a sacrifice on the part of England. What is that sacrifice? It is not a sacrifice of money; it is a sacrifice in the form of a slight modification of the Englishman's proud free-trade principle. Tariff reform is not altogether a new thing to England. It was one of the trump cards in one of the most recent general elections. I know it does not require a prophet to say what the answer of Government to this Resolution will be. I was reading the other day of a case where an English trader was prosecuted for selling adulterated apricot jam. There was no apricot in the jam and the man's defence was that people have no more business to expect apricots in the jam than they should expect to find sunlight in sunlight soap. I must appeal to England; India is a part of the British dominions. She is not an insignificant part of an Empire any more than the *koh-i-noor* is an insignificant gem in the British Crown. I am appealing to the moral aspect of the question with as much emphasis as lies in my power. I say England should do something to develop the indigenous industries of this country. The Hon'ble Sir G. Chitnavis' Resolution is one which suggests many side-issues which the mover of the Resolution has not taken into consideration. Retaliation and revenge are one and the same thing. It might not be directed towards India only; retaliation might be directed to any part of the British dominions. These are questions which must necessarily be discussed before a Resolution of this nature would be carried, but I appeal to you to consider the moral aspect of the question. Is it or is it not a part of England's duty to help us in the development of the industries of this country? "

54. Resolution Regarding Customs Duty on Sugar Imported from Foreign Countries*

The Hon'ble MR. MADHUSUDAN DAS: " Sir, situated as we are, I should not at any time be inclined to move a Resolution

*On 17 March 1913 (p. 480).
Sri Ram Bahadur moved:
" That this Council recommends to the Governor General in Council that an additional customs duty of Rs. 5/- p.c. be levied on sugar imported into India from foreign countries. "

Digitized by srujanika@gmail.com

of this nature recommending in a definite form a customs duty on a particular article. It gives us all the same on the present occasion when these two Resolutions have been brought forward in the Council an opportunity which I do not like to lose of giving expression to a growing feeling among the educated people here that England is expected to make some sacrifice in the interests of India when there is a sufficient reason for it, when a strong case is made out for a concession in the nature of a departure from her free trade policy. I do not believe that this Resolution will be acceptable to Government, but I still hope that, when the Hon'ble Member replies to this that at some future time, a Resolution like this involving a modification of England's policy will be found acceptable to Government. For after all these matters must be controlled by the Government at home. Some of the speakers who have supported this Resolution have referred to the desire on the part of a certain portion of the population of India to prefer country-made sugar to the sugar imported from Java or other foreign countries. This is not a safe argument to go upon in moving a Government to levy customs duties, for does not that argument imply that just because a certain section of the community wishes it another section should pay the tax? At the same time it is entirely under the control of the community, who do not wish to use foreign sugar, to drop the use of it and confine themselves to the use of sugar of country produce. That is a practical way of carrying out the wishes of the community. At the same time we know that almost all Indian sweetmeats are made of imported sugar. Sugar tastes all the same when it comes into confectionery, and there is nothing to tell us from what part of the country it comes. We should, as I said before, when the proper time comes, make a strong case and put it before the Council. The evidence of the case should show reasonable chances of developing some industries in an organized form in this country, and that the industries when developed would be of such a form and be in such proportions that they would safely compete with the foreign industry in that line; and then we should ask Government whether for the benefit of this infant industry, protection should not be given for a time. Permanent protection I do not believe in. India must be prepared to fight with the world. It is no use saying that we must be under the protection of this rule or that rule for ever. I do not think that of the Hon'ble Members who have spoken

Digitized by srujanika@gmail.com

in support of this Resolution, any one has given facts to show that even in the near future there is any chance of developing this — sugar manufacture as an indigenous industry in this country. The difficulties are many. We have heard today of the poor ryot cultivating his sugarcane. If industries are to be developed in the same line and in the same manner as in foreign countries, they must be organized; a large amount of capital will have to be put in; all that is necessary for the success which the industry has achieved in foreign countries will have to be secured. Now let us take a particular instance — a capitalist lays out his money, he will not have under his control every ryot who grows sugarcane. Unless he has land enough to cultivate sugarcane, he will not be prepared to risk his capital, leaving the ryot to dictate terms to him. As India is situated, we have got ryot's right in land and the ryot can always be in a position, which you may call, of independence to dictate terms to the buyer of the produce of the soil. Therefore I said when I spoke a short time ago that we are not trying to develop indigenous industries. With us it is not a work of evolution, it is a work of revolution.

"Of course in Java the sugar industry was started at a time when land in large areas could be had. Capital flowed in and consequently the industry flourished. Where are those chances now in India? I think it would be very difficult within any prescribed area to purchase 2,000 acres of land in one plot. Then, Sir, sugar is a thing which is, I suppose, used very largely. May I mention to my Hon'ble colleagues the fact that Java not only sends to this country refined sugar, but a rejected bye-product of sugar is also imported into this country in the form of what is called *chitty gur*, and is used for making the *hooka* tobacco. That is an impure form of sugar which is used very largely. Now, has anybody been able to undertake to produce that in India?

"Then, I am sorry that I cannot support the Resolution, because when we come to look at the question from the point of view of practical politics, it will do us no good to have protection without knowing for how long that protection is wanted for developing the indigenous industry. Of course if sugar is subjected to a customs duty like the one proposed, we will not have sugar-coated pills from doctors, as they will have to be taxed. Not only that, but some time ago I saw that the Customs Office in

Digitized by srujanika@gmail.com

England held that some leather imported from Australia was held up (for customs) as being weighted with sugar; and I read the other day Australia is retaliating by refusing to receive English leather as being weighted with Barium Chloride.

"On these grounds I think, Sir, I cannot support the Resolution."

55. The Indian Criminal Law and Procedure (Amendment) Bill*

My Lord, I have listened to the eloquent and admirable speech of the Hon'ble Member who introduced the Bill, and I must say that he deserves very great credit for the care and attention which he has paid to the subject. The subject is one which bristles with difficulties, difficulties of a social character, of a legal character and difficulties of various other characters. Morality is a term which has never been defined and it is not possible to define that word. It is not possible to give such a definition to the word as would make that definition acceptable in all countries and to all sects and classes of people. In the admirable speech which has been delivered by the Hon'ble Member certain facts have been brought to the notice of the Council, which go to show that there are different shades of morality, even in this country; and the difference is remarkable in some cases. In other words, it may very properly be said that there are different shades of morality amongst the vast community which this Government has to rule over. There are, no doubt, educated men who have advanced views, and expressions to those ideas may be found here; but the Hon'ble Member who introduced the Bill has exercised discretion very properly in not taking into consideration such advanced views, because the actual acceptance of such advanced views means a drag, a heavy drag, from views which are not so advanced. There is very great difficulty in laying down, especially in this country, the boundary line between morality and religion. The Hindu is religious in every sense. He eats religiously, drinks religiously, bathes religiously; and perhaps dreams religiously; and if in legislative matters it is necessary to

*On 17 September 1913, Proceedings, op. cit. 1913-14. Vol. LII, p. 68. Sir Reginald Craddock moved for leave to introduce a Bill to amend the Indian Penal Code and the Code of Criminal Procedure—11898. **The amendment proposed to give better protection to the minors.**

Digitized by srujanika@gmail.com

draw a boundary line between morality and religion and if the legislature of a Government were to undertake to lay down that boundary, an attempt of that nature will be beset with serious difficulty. Specially as we have received assurances here from important men like my Hon'ble friend, Mr. Surendranath Banerjee, that public charity will come forward to co-operate and help Government in giving effect to the provisions of this Bill, I think that Your Excellency's Government would have done its duty if effect is given to the Bill as it stands in its general features, and if the public actually come forward to co-operate in the measure. I remember some years ago having visited an institution which was started in Calcutta by a European lady, who had a large number of inmates in this asylum rescued from a degraded and immoral life and these women had been taught useful industries, so that they could earn a means of living afterwards. Such things may be started to put down this evil. It is not an evil which is peculiar to India; it is an evil which is perhaps found in most countries in the world and it is also admitted in all countries that the evil should be put down not only to save these girls from the degradation, the life of shame, to which they are exposed, but also to save society from the infection which the life of a number of such women necessarily breeds.

"As regards the remarks that were made by the Hon'ble Member who spoke last, I should ask Your Excellency's Government to take into consideration the request which he made; and my experience in the Provincial Councils supports that. Sometimes a Bill is in the hands of Hon'ble Members before it is formally introduced into the Council. I beg Your Excellency's Government to take into consideration the difficult position in which non-official Members are placed."

The Hon'ble Mr. Madhusudan Das: "Sir, I should have been very happy indeed if the discussion in this Council Chamber on an important social reform like this had not been characterized by an amount of heated discussion or excitement. An important social reform like this, when being discussed by non-official members of this Council, ought to be discussed with the utmost calmness and judgment and free from any excitement whatever. We, non-official members, ought not to lose sight of the fact that, whatever may be our individual faith, whatever our individual religious persuasion, we represent other people who have other

Digitized by srujanika@gmail.com

religious persuasions and other religious faiths, and when we speak from our seats here, we are not only speaking in favour of the faith we have, but that we are as well speaking for those who are not of our own faith; and therefore the sentiments that find expression from us ought to show a regard for the religious feelings of other people. These remarks might not perhaps apply to my Hon'ble colleagues who have been returned by purely Mohammedan electorates; but at the same time I have no doubt they also realize the importance of paying sufficient regard to the religious feelings of other people, if for no other purpose, at least for the purpose that the work of this Council may be of a harmonious character and that this enlarged Council may fulfil the hopes which were entertained, when it was created, of its being a means of useful and helpful co-operation by non-officials with the Government. During the discussion there has been — at least I have noticed in some speeches — an under-current of apprehension that this Bill provides for social reform which will ultimately be used as a means of converting people to Christianity. The Hon'ble Home Member in his speech distinctly assured us that Government does not consider this in any other light than as a purely social measure; that Government is eagerly looking forward for help and support from the non-official public, and Government believes that the success of the measure would depend upon the amount of support it received from the non-official public. I do not understand why, after having these assurances, there should have been this under-current of apprehension that there is some other motive of a religious character underlying this Bill. I for one do not believe that a Christian who utilizes the opportunities which he has as the guardian of a person reclaimed from an unfortunate life, for the purpose of making a proselyte of her, really understands what Christianity means. Such a person ought to study the Life of Christ. If a person does not understand that Christianity has a broad humanitarian basis which will give accommodation to all classes of people, Mohammedans, Jains, Hindus, everybody, where they can meet, where they can put their shoulders to the wheel for the progress of humanity, where they can all unite together and put their united hands to the lever which uplifts humanity, if a person has not understood that Christianity affords such a broad humanitarian basis, he has yet, I say, to study the Life of Christ. I do not know why there should have been such an apprehension of con-

Digitized by srujanika@gmail.com

version to Christianity. I do not know what led my Hon'ble colleagues to believe that Government was favourably disposed towards Christians. We had an answer to a question of mine as to what special provision Government had made for the education of Christian boys and girls, and the answer was that the Government of India had no information on the subject ... "

The Hon'ble MR. MADHUSUDAN DAS: "If that is so, I am really glad. The conversion would mean conversion to any other religion other than Christianity, but during the discussion it has been mentioned that protection is needed for Hinduism and Mohammedanism. It has also been said by my Hon'ble friend in front of me that the difficulties which appear now would disappear when we came to the practical stage of the working of the measure. I do not know whether in such cases the difficulties loom large only in the imagination and disappear when we come to the practical working of a measure. My experience is that difficulties appear very small at the outset, but when you come to put a measure into practice the difficulties are very much greater. The real question is if there has not been any apprehension on that account, then really we are driven to this position that religion means different phases of faith within the pale of Hinduism. Hindu is an indefinite term and so is the religion itself an indefinite term. What does religion mean? Does it mean the different phases of Hinduism or ... "

The Hon'ble MR. MADHUSUDAN DAS (p. 884): "I am glad the Hon'ble Pandit Madan Mohan Malaviya referred to a passage from the *Mahabharata* when he said there was mention of an incident where for a single simple act of hospitality a person in an infamous life secured salvation.

"If we accept that view and extend hospitality to these girls, I suppose their salvation from the degraded life they now follow will be secured; and that would in no way conflict with the idea of Hinduism. We have had assurances here that actual rescue homes will be started and that public charity will come forward in aid of a scheme like this. Not only that, but we have among us, among the non-official members here, a noble example ... the Hon'ble Sri Ram Bahadur, who has started a home of this nature for the rescue of children of this description. It has been

Digitized by srujanika@gmail.com

in existence, in working order, for two years; and I understand it is working successfully. We are all anxious to eliminate the religious element from this discussion. If friendly co-operation between all classes of the people is extended into the practical working of this reform, and all religious differences eliminated, we shall find no difficulty whatever in working this measure, and I hope that the promises of co-operation, of friendly help and subscriptions we have had in this Council will minimize such difficulties as may arise. I do sincerely hope that there will be no real difficulty in working it, and perhaps there will be more help forthcoming in support of the measure than we at present anticipate."

56. The Repealing and Amending Bill*

The Hon'ble MR. MADHUSUDAN DAS said: "Sir, I wanted to speak on this Bill ... ".

The Hon'ble MR. MADHUSUDAN DAS moved that in the Second Schedule, in all instances where it is proposed to repeal them, the words 'and it shall come into force at once' be not repealed. He said: "My Lord, the amendment I propose refers to certain Acts which are to be found at page 5 of the Bill. When the Hon'ble Law Member introduced this Bill into the Council he remarked that it was in compliance with a practice of this Council, to use his words 'to remove dead matter from the Statute-book every ten years', that he introduced the Bill. But an examination of the Bill shows that he has not only proposed to remove dead matter during the last ten years but also that he has proposed to remove all Acts which have become obsolete during the last 80 years. For the care and attention which a work of this nature involves we are all thankful to the Hon'ble Law Member. I am happy to say that the arduous task undertaken by him has been carried through with success.

"The clauses which it is proposed to repeal are to be found at page 5 and refer to certain enactments, the first of which was passed in 1876 and the last in 1882, covering a period of 6 years. Now, on referring to the explanation which is to be found at paragraph 3 of the Select Committee's Report, it will be seen

*Proceedings, ibid, p. 233.

Digitized by srujanika@gmail.com

that they say 'We may explain, as there appears to be some misapprehension on the point, that only those commencement clauses have been repealed which provide that the Acts shall come into force either at once or on the passing thereof.' I find on referring to the Acts that Act XX of 1876 is an Act in which these words occur 'and it shall come into force at once' and yet that is not included in the Bill. Act XIV of 1879 also contains those words. That is not included in the Bill. All these Acts have these words 'It shall come into force at once': not only these but this is true of Act II of 1881, Act XI of 1881; so it seems that it has been thought proper to remove this clause in some cases and to leave it in others. Why it has been so, no reason has been given. It seems the same has been done with regard to the second clause, which is that the 'Act shall come into force on the passing thereof'. As regards 'passing thereof' it will be found that Act XI of 1879 says that it shall come into force on the passing thereof, but that is not included in the Bill. The same is true of Act III of 1878. So this statement in the Report of the Select Committee that it is proposed to remove all clauses which contain the words 'shall come into force at once or on the passing thereof' is not justified. I have only examined the Acts which were passed during these six years; but if it were possible to examine all the Acts which were passed during the 80 years — the period covered by the Bill — I am sure there will be many more to which these remarks of the Select Committee would not apply. As I have said already, why this period was selected is not clear, and why, having selected this period, some of the Acts which came into force either at once or on the passing thereof have been excluded and others included, nothing is stated.

"Then they say ...

> In such cases, the date of the commencement of the Act is always printed at the top immediately above the title, for convenience of reference, in the copies of Acts issued by Government.

"I have in my hand a copy of an Act which was published by Government and there is nothing to show the date when the Act was passed. I refer to Act I of 1910.

"What is above the title is 'Received the assent of the Governor General on February 9th, 1910'. Now, these words are to

Digitized by srujanika@gmail.com

be found in every Act. That does not show the date on which the Act was passed. The Act is passed by the Legislative Council and His Excellency assents to it by virtue of his being the supreme executive authority in the British Indian Empire. The Legislative Council brings the Act into force, and the assent of the executive authority means that the Act is to be enforced and administered with the aid of the administrative machinery. Let us take the example of Act XVIII of 1879. That is the Legal Practitioners Act; it received the assent of the Governor General on 29th October 1879; but the Act says 'This Act shall be called the Legal Practitioners Act and shall come into force on the first day of January 1880'. That shows that the Act did not come into force necessarily on the day it received the assent of the Governor General. If we suppose that, then we are driven to the logical consequence that the assent of the Governor General virtually repealed the commencement clause in the Act itself; and certainly nothing would warrant such an interpretation. In some cases the Act distinctly says that it shall come into force on the passing thereof; that is on its being passed in the Legislative Council. In such cases when the Governor General's assent is given after the passing, the assent has a retrospective effect. Act IX of 1910 shows that it received the assent of the Governor General on the 18th March, whereas in the body of the Act the commencement clause says 'that it shall come into force on such date as the Governor General may by notification in the *Gazette of India* direct in this behalf'. The same is to be found in Act X of 1910. Let us take again Act VI of 1879. What does that show? Act VI of 1879 says 'This Act may be called the Elephants Preservation Act; and the Local Government may, with the previous sanction of the Governor General in Council, extend it to any other local area by notification in the local official gazette. So far as regards the power to make declarations and rules it shall come into force on the passing thereof; in other respects it shall come into force on the 1st day of April 1879'. So, there are, if I may use such an expression, two kinds of vitality given to the Act.

"Then, they say in the Select Committee's Report that they have been following precedent. It has always been the precedent. I submit, My Lord, it is just the reverse. If the precedent were that these words should be removed from all these Acts

Digitized by srujanika@gmail.com

which are to be found at the bottom of page 5 of the Bill, then these Acts have survived two of these decennial revisions; and the practice therefore would show that these should not be removed, as they have not been removed on two previous occasions. Then we find there is always in every Act a commencement clause. The General Clauses Act, section 3, clause 12 says 'Commencement' used with reference to an Act or Regulation 'shall mean the date (p. 814) on which the Act or Regulation comes into force'. The very words 'comes into force' are used. Here we have the actual commencement in the body of the Act, the clause showing as to when it should come into force, and then we have the General Clauses Act saying what 'comes into force' means; and, consequently, I submit, My Lord, that it would not do to say that the words printed at the top of the title showing the date on which the Act received the assent of the Governor General should be considered as the date when the Act comes into force.

"Then reference has been made to copies of the Act printed by Government. The Government printer is not authorized by legislation. We all know that printers have attained the sobriquet of angels; but they have not been angels of the most desirable type; and consequently this responsibility should not be delegated to the printer without any authority of any Act or legislative enactment. Supposing that were possible, then what becomes of the Acts which the public have bought, copies of which were not printed by Government? I do not think that any executive authority can, contrary to what has been the practice hitherto, issue an order to the printing department to publish on the top of every Act the date on which it was passed in the Council. Supposing it were possible to do it, what have the public done that they should lose the use of the enactments which they have bought and which were printed by private men? These clauses have been here for 20 or 30 years, and even if they were dead, they were quite innocuous. I suppose they did not take much space in the Statute-book; and the date when an Act comes into force is very often important; because the Act actually extinguishes a right or brings into existence that right, and before we remove it we have to consider whether it is desirable at all in the interests of the public to remove these expressions which have been in the Statute-book for so long a time. I hope the Hon'ble

Digitized by srujanika@gmail.com

Law Member will remember that there arise great many difficulties where there was want of precision in any legislative enactment; as a professional lawyer, this he must have experienced; it is highly desirable that there should not be anything which is likely to bring about an anomaly; and the anomaly will be greater here, because while these words are removed from certain Acts, they are allowed to stand in certain other Acts.

"As a matter of fact in the case of some Acts they have been removed and in the case of other Acts they have been allowed to stand. On these grounds, My Lord, I hope sincerely that the Hon'ble Member will see his way to accept the amendment."

57. The Code of Criminal Procedure (Amendment) Bill*

The Hon'ble MR. MADHUSUDAN DAS: "Sir, as the proposal is a matter of form, the only course left to us would be to propose, when the other two Bills come up, that their further progress be stayed, and if, on examining the amendments which are proposed to be made in the Criminal Procedure Code, Hon'ble Members find it desirable, the three Bills may be allowed to be considered together. I think the Hon'ble Home Member ought to be prepared to receive suggestions of that nature, should the amendments proposed in the Bill now introduced show that it would be better to consider all the three Bills together."

58. Budget, 1914-15†

The Hon'ble MR. MADHUSUDAN DAS: "My Lord, the Hon'ble Finance Member has received congratulations from everybody who has spoken in this Chamber and by this time I fear a feeling of satiety has grown up, but so that my silence may not be construed as a want of appreciation, I endorse those remarks. Multifarious suggestions have been made and I should not add any more to these suggestions, but should wait till next year just to see how many of these suggestions have been adopted by the Hon'ble Finance Member. We have had sufficient experience of his iron grip on the purse he holds in the discussions on

*On 21 March 1914 (p. 979).
†On 24 March 1914 (p. 1018).

Digitized by srujanika@gmail.com

the Resolutions which were before the Council during the last few sittings. I should like, My Lord, to refer to one or two matters which have been referred to by some of the speakers. Education and Sanitation occupy a prominent place in the policy of Your Excellency's Government; they have occupied a good deal of the attention of this Council during these last few sittings by reason of the Resolutions which were moved and they have been referred to by several Hon'ble speakers this morning. The importance of these two subjects cannot be over-estimated. Let it not be understood that I am against advancing these two, Sanitation and Education, but I must say that I cannot endorse the remarks of the Hon'ble Mir Asad Ali when he said 'never put off till tomorrow, what you can do today'. That is a good old maxim when applied to actions, but it is not desirable that it should be applied to the spending of money. We must not lose sight of the fact that in asking for sanitation we are asking for the introduction of a method which is foreign to oriental civilization. The contact of England with India really means the meeting of two opposite civilizations. What was known as the cause of disease in old days is not the cause of disease in public opinion now. We have amongst us the most powerful democratic microbe that makes no difference between the peasant and prince and which uses its own victim as its carrier. So this being the state of things, the real question that comes up for serious consideration is which is to have precedence, Education or Sanitation? My Lord, I am not referring to high education, but to that type of education which would be of value for furthering the cause of Sanitation amongst the masses. In old days some philosophers were troubled with the question whether the seed came first or the tree. This is the form of question that arises now as to whether Education should have precedence or whether Sanitation should come first and Education afterwards. Sanitation, for the sake of causing relief in times of epidemic, stands on a different footing from sanitation by which is meant a system that will secure longevity of life and protect life from destruction by disease. Of course, sanitary relief measures are always welcome and should not be postponed for a single day if that can be helped, but the introducing of sanitary reform in the country, I submit, should not be undertaken unless the people are, as it were, inoculated under the principle which underlies the modern system of sanitation. Some of the speakers, My Lord, have

Digitized by srujanika@gmail.com

referred to the opium question. This opium question seems to have been prominently before the public mind as will be seen from the references to the question by several Hon'ble Members here. The way in which the Indian public view the question is if England agrees to put down the system which was a source of income to India on the ground of moral sentiment, and if it is condemned as it is demoralizing to the people, how is it that the consumption of opium is not interdicted in India? If it is defended on the ground that the use of opium here is a very different thing from introducing it into another place, the question presents to the Indian mind, how is it that foreign liquors are allowed to be imported into this country? What is immoral in the one case, ought to be immoral in the other. The difference between preaching and practising is one which has never been appreciated, and the Indian is not to blame if he does not appreciate it now. Another matter to which reference has been made is the New Capital. My Lord, I was at least one of those who thought that the question has been settled, but it has been referred to by three or four Hon'ble Members in the Council and from the remarks that have been made, and especially remarks regarding the advantages of removing the Capital here, it seems that these references have been made with reference to certain criticisms which one hears outside this Council Chamber and which I am sorry to see have been lingering to this day.

"The function which was performed by His Majesty, when he was here, was not laying the foundation of a city which would contain a Viceregal residence and some other buildings necessary for carrying on the work of administration. Most people looked upon it as laying the foundation of an Empire; and where could the foundation of an Empire — a foundation which would help the people to realize fully in their lives the conception of an Empire — I say, where could the foundation of an Empire be laid but in Delhi, where noble Queen Victoria assumed the title of Empress of India, where Edward VII, in proclaiming his coronation, promised that he would carry out the policy of his mother, the first Empress of India? Since the days of that ceremony, the conception of an Empire has been felt. Parts of this vast Empire, whose interests had been neglected in the past, have received attention; the needs and wants of certain other parts have been attended to. So really the broad foundation of an

Digitized by srujanika@gmail.com

Empire, which rises above all parochial, commercial or communal interests, has been not only laid, but has been felt by the people. And if there was anything wanting to develop that conception in the Indian mind, it was done by this Government. We shall ever remain thankful, India shall ever remain thankful, to Your Excellency for your noble, kind, and statesmanlike services in connection with the South African question. We have before us now a broad conception of an Empire, an immense Empire, in which India occupies a conspicuous and prominent place, and I do sincerely hope that the conception will be strengthened and widened and that its basis and foundation will extend over the whole British Empire over which the sun never sets.

"There are many other matters, but I do not think I should take up more of the Council's time, as the rules make one's articulate existence here short, and I have already taken up sufficient time."

59. Resolution Regarding State Technical Scholarship*

The Hon'ble MR. MADHUSUDAN DAS: "Sir, the subject-matter of this Resolution no doubt is a very important one. Even the Hon'ble Finance Member, who always comes forward with a sledge-hammer of arguments and figures intermixed with humour to shatter to pieces any argument which supports a Resolution, will be forced to admit that in a country like India, where more than 70 per cent of the population find occupation in agriculture, he will have to look to the mercy of the heavens in order to bring out prosperous budgets unless this pressure on land is relieved by development of industries. The pressure itself is higher than in any other country; and consequently relief can be sought only by the development of industries. But we are in a dangerous position just now. While advocating the advance of industrial developments, we should not lose sight of the fact that we have to compete in these things with European countries. It is not a question of developing indigenous industries by processes of evolution. What we have to do resembles more a process of revolution, because hitherto the industrial products of other countries have flooded this country. We have acquired tastes which make the industrial products of foreign countries acceptable to

*On 9 March 1914 (p. 759).

Digitized by srujanika@gmail.com

us; and it is in this state of things that we are awakening to the responsibility of developing the industries of our own country. However earnest may be our desire, however laudable may be our wish, we cannot get over the fact that we have to compete with the West. Another thing is that our difficulties are great as we have to fight against great odds; and therefore we should exercise every possible circumspection, and be very careful how we proceed in this unequal combat. For India has been as it were lying under sleeping sickness for hundreds of years past with regard to industrial development. Her position is like that of a person who has been under the influence of sleeping sickness for a long time, who rises up and is told that she is to carry on a combat with another person who has been exercising his muscles every day. That is really the state of things; and we must use very great care as to how we proceed about this. A good deal has been said about the success which has been achieved in practical life by those students who went out to England or other foreign countries and learnt particular branches of industry. But a careful study of any branch of industry in Europe will show that those persons who were pioneers in the field had to suffer failures and defeat: and it was only after a struggle extending over many generations that they have attained the position which they now enjoy. The Hon'ble Mover has referred in his speech to certain people who went out and learnt the leather industry in foreign countries, and mentions an instance of a person who has found occupation and has started an undertaking of his own. I have some experience in this industry. I have received applications from half a dozen persons who have come out with leather industry experience; and I can speak of many who have proved perfect failures in the undertaking they took in hand; I know of one who had come to India with glittering testimonials and medals; now he has already left or is about to leave for England again to study law and come out as a barrister. In the early days of this movement Government sent out several students to study agriculture, and with what results? Some of them, I suppose, retired on pensions as Assistant Judges or Deputy Magistrates, giving their whole time to sending men to jail or hanging them for murder. Well, in a competition with a foreign country where industrial development is existing amidst keen competition, and developing under keen competition, it is absolutely necessary for us to know what the conditions of that country are, if

Digitized by srujanika@gmail.com

we think of successfully competing with that country. There must be enterprising capital. There must be the actual union of intellect, money and skilled labour. The young men who go and acquire technical education may learn the secrets of some industry. But how are they to get the amount of capital which will turn out the things as they are produced in the Western countries? Where is the capital to come from? I know a person who went to Japan and learned the sugar industry. He is now serving in a Native State in an office which is something similar to that of a Deputy Collector. One of the speakers, I think the Mover of the Resolution, said that in education you cannot expect a quick return. Certainly not. But to whom is that addressed? If it is addressed to the student, he will say 'as soon as I return to my country I want my pay'. That should really be addressed to the capitalist. If you want to educate the country in industry, you should not expect quick return, and those people who are the pioneers of these industrial developments especially do not get quick returns. But has the country capitalists who are willing to launch their capital in such enterprises? Very often you will find that when a man is sent to learn technical education, nothing is said as to where he will find employment when he returns to this country. Only a short time ago the Bihar and Orissa Government wrote to me to select a person to be sent to any foreign country for learning an industry, but at the same time they annexed a condition that I must undertake to find occupation for him when he returns.

"That is really what should be done. If there are capitalists in the country who are willing to advance the money, it would be necessary for them to select and send their men to learn a particular branch of industry in the foreign country. There are so many special departments in Europe; the division of labour means a great deal there. Then the capitalist and student will have to select what particular subject in the industrial world they wish to be taken up. The next thing required is to find out a market. The articles will have to be produced cheaper than they are in foreign countries. These are the questions that will have to be considered. I hope the Hon'ble Mover of the Resolution will not misconstrue my remarks as opposing his Resolution asking Government for a scholarship. I would be a traitor to the interests of my country if I did oppose it, but certainly I do think

Digitized by srujanika@gmail.com

that before any person is sent, proper care should be taken that on his return we find ready occupation for him, and that ready occupation must be such as would enrich him and enrich his country and enable us to successfully compete in the same lines of industry as it exists in Europe. It is all very good to talk of *swadeshi* articles, but it must be on commercial lines that technical knowledge must be used. We must be able to get things as cheap and as good in quality as European goods are before we can reasonably expect to succeed in this enterprise. Far be it from me to oppose the Resolution; I merely wish to add a rider to it. It comes to this: it seems to me that particular care should be taken that money is not thrown away; and not only thrown away, but that it should not be so used that, instead of bringing good to the country, it might bring discontent to the person who is sent out."

60. Questions and Answers

The Hon'ble MR. DAS asked:

1. "(a) Will the Government be pleased to give the total number of Indian Christians (Roman Catholic and Protestant) irrespective of denomination or sect?

"(b) Will the Government be pleased to state whether any special provision is made for the education of Indian Christian boys and girls with a view to meet the educational needs of the community?

" (c) If any special provision has been made, will the Government be pleased to state the nature of such provision and the place or places where the facilities of such special provision are available?"

The Hon'ble MR. DAS asked:

2. " (a) Has the attention of Government been drawn to the proceedings of Gope Jate Mahasabha (a Conference of the Gope or Ahir caste), which met at Purnea on the 27th, 28th and 29th of December 1913, and the proceedings were published in the *Abhir Samachar*, dated 15th January 1914?

" (b) Is it the intention of Government to give facilities for education to boys of the Ahir or Gope caste in the manner des-

Digitized by srujanika@gmail.com

cribed in the 12th resolution p. 856 of the proceedings, or in any other manner, which Government considers suitable to the requirements of this community ?

" (c) Will the Government be pleased to lay on the table a statement giving information on the following points:

(i) the number of Ahirs in each of the Provinces of India,

(ii) the percentage of literate men among men in the Ahir caste in each province."

The Hon'ble MR. DAS asked:

" (1) Is it a fact that there is no competent shorthand reporter in the Legislative Council of Bihar and Orissa and that in consequence the remarks made by Hon'ble Members are not accurately reported ?

" (2) Is it a fact that the Government of Bihar and Orissa applied to the Government of India for sanction to engage the services of a competent shorthand reporter to report the proceedings of the Legislative Council ?

" (3) Will the Government be pleased to lay on the table a statement showing the amount sanctioned as pay of the shorthand reporting staff maintained by the Imperial and the several Provincial Governments to report the proceedings of their Legislative Councils respectively ?"

(The Council met at the Council Chamber, Imperial Secretariat, Delhi, on Friday, the 27th February 1914.

Present

The Hon'ble SIR HARCOURT BUTLER, K.C.S.I., C.I.E., Vice-President, presiding, and 54 Members, of whom 48 were Additional Members.)

60A. Questions and Answers

The Hon'ble MR. DAS asked:

1. " (a) Has the Government received a copy of any letter addressed by the London Chamber of Commerce to the Secre-

Digitized by srujanika@gmail.com

tary of State for India containing a request to prevent the use of barium sulphate or barium compounds in the manufacture of leather in India ?

" (b) Has the Government made any inquiry to ascertain whether barium sulphate or barium compounds are used in India in the manufacture of leather ?

(c) If such inquiry has been made, will the Government be pleased to state whether it has been found that barium sulphate or barium compounds are used in the manufacture of leather in India, and if, so, to what extent and in which parts of India ?

(d) Is it a fact that the use of leather adulterated with barium sulphate or barium compounds is injurious to the human body, and sometimes leads to serious cases of blood-poisoning ?

(e) Is it a fact that in 1912 the Commonwealth of Australia issued a proclamation prohibiting the importation into that country of all leather meant for human wear containing any portion of barium sulphate or barium compounds ?

(f) If barium sulphate or barium compounds are used anywhere in India in the manufacture of leather, what measures, if any, does the Government propose to adopt to prevent the practice ? "

The Hon'ble MR. DAS asked:

2. " Will the Government be pleased to furnish information on the following points:

(a) The value of rough tanned leather exported to England from each of the provinces of Bengal, Bombay, Punjab, Madras and United Provinces during the years 1910, 1911, 1912 and during the portion of 1913 for which figures are available.

(b) The value of hides and skins exported to England from the above provinces and during the periods named in (a).

(c) What portion if any of the rough tanned leather exported from India to England is re-exported to Australia as finished leather or as leather goods ?

Digitized by srujanika@gmail.com

(d) Will the Government be pleased to give separately the value of rough tanned leather and of hides and skins exported from India to Germany during the years 1911, 1912 and 1913 or such portion of 1913 for which the figures are available ? "

The Hon'ble MR. DAS asked:

3. " Is the question of maintenance of land records under the consideration of the Government ? If so, when may its final decision thereon be expected ? "

61. Resolution for Amendment of the Press Act*

The Hon'ble MR. DAS said: " Sir, the Resolution before the Council seeks an amendment of the Press Act of 1910. That Act was passed under peculiar circumstances. The readings of the political barometer at the time made it necessary. As to whether an amendment is necessary now or not is really the question before the Council. At the time when the Act was passed, the conditions which necessitated the passng of the Act were considered extraordinary, they were considered unusual. An unusual state of things demanded a peculiar piece of legislation suited to the time.

" The figures cited by the Mover of the Resolution show that Government have found it necessary almost every day to exercise the powers reserved to Government under the Act with regard to newspapers only, for the Mover said that he had taken notice of 800 cases within a certain period, which on striking their average, gives more than one case per day. If that be the real state of things, what was considered an abnormal and unusual state of things at the time the Press

*On 9 January 1914. (p. 163).
Mr. Surendra Nath Banerjea moved:
" That this Council recommends to the Governor General in Council that an amendment of the Press Act of 1910 be introduced in the Imperial Legislative Council so as to provide that when any order of forfieture is made under the Act, the order must state or describe the offending words or articles or pictures or engravings or whatever it is upon which the Local Government bases its order, and that Section 22 of the Act be so modified as to definitely empower the High Court to set aside an order of forfieture not made in conformity with the provisions of Sections 4, 6, 9, 11 and 12 of the Act.

Digitized by srujanika@gmail.com

Act was passed is now actually a normal state of things. On that ground, Sir, I think an amendment of the Act is necessary. If that be the right view, a thing which was considered usual at the time has developed into an evil which is to be permanent amongst us. So an amendment of the Act is necessary on that ground.

"The Hon'ble gentleman who rose immediately after the Mover had sat down, said that he would rather seek an amendment in order to make the provisions of the Act more stringent. Sir, on both sides the necessity of an amendment has been passed. What really strikes one as a very difficult question — and yet it is a question in which the public are very much interested — is this, namely, whether the Act has been worded so as to give the people an idea as to what it is that is expected of them. The Act was interpreted by the learned Chief Justice of the Calcutta High Court in the case to which reference has been made by the Hon'ble Mover, and the Chief Justice pronounced it as full of ambiguities. I am very glad indeed that the learned Advocate-General, who represented the views of the Crown in that particular case, is present here. I mean the case of Mr. Mahomed Ali with regard to the publication of the pamphlet "Come over to Macedonia and help us" — that was the pamphlet which was being interpreted and discussed before the Chief Justice at the time. The learned Advocate-General then contended, and I have no doubt that his contention represents the views of Government. I have his words here — 'the High Court's power of intervention is the narrowest; its power to pronounce on the legality of the forfeiture by reason of failure to observe the mandatory conditions of the Act is barred.' These are the words which I find in that judgment of the learned Chief Justice, that even in illegalities by reason of failure to observe the mandatory conditions of the Act the High Court's powers are barred.

"Sir, I have always understood that the mandatory conditions of an Act, especially when the conditions are conditions precedent to any action, or to any measure, or to any procedure, are a *sine qua non* to the validity and legality of what follows. But here we have a case where the mandatory conditions have been differently interpreted.

Digitized by srujanika@gmail.com

"It is admitted that there are conditions of a mandatory character, and yet it is contended that the High Court's power to pronounce on the legality of the forfeiture, by reason of the failure to observe the mandatory conditions of the Act, is barred. If they are to be at all mandatory conditions, certainly they must be tested by those rules and canons of interpretation which have always been held to be applicable to mandatory conditions in all civilized countries. If we remove from the Act the mandatory conditions (let us suppose for a moment that the mandatory conditions are removed) how does the Act stand? The Government's power is defined in section 4 as— 'whenever any printing press is used for the purpose of printing or publishing any newspaper, book or other document, containing any words, signs or visible representations which are likely or may have a tendency directly or indirectly' and so on, 'notice is given to the keeper of such printing press stating or describing the words, signs or visible representations which in its opinion are of the nature described above'. Words to a similar effect recur in sections 9, 10 and 11. These words (if the mandatory conditions be omitted) will not find any place in the Act. What is left in the Act is the power of the Executive Government to order a forfeiture, and that power certainly is of an executive character. No doubt it is absolutely necessary that an Executive Government should possess powers which should stand beyond the power of a judicial court to criticise. If I remember aright the learned Chief Justice in that very judgment says that the Executive Government may receive information from other sources than are open to the Law Courts, and the Executive Government may be influenced by considerations which do not weigh at all before a High Court. It is quite open to the Executive Government to exercise its executive powers — such powers as it deems necessary for the better administration of the country, for the peace of the country and the preservation of law and order in the country. But at the same time when the Executive Government comes to the Legislative Council and introduces a piece of legislation with a view to arming itself with a power through the instrumentality of the Legislature, certainly that Act which gives the Executive Government its power must be interpreted according to the known rules and canons of interpretation which have been the result of ages of judicial decisions. The

Digitized by srujanika@gmail.com

executive power of the Government in this case has been derived from a piece of legislation. It was quite open to the Government to exercise its power, such as it thought the conditions of the country demanded, without coming to the Legislative Council; but when the Executive Government, which takes the initiative in every piece of legislation, comes to the Legislative Department, and takes its arms from the armoury of legislature then certainly the provisions of the Act which arms the Government with the power must be interpreted according to accepted rules of interpretation and construction. Here we have a piece of legislation where power is given to the High Court to test the legality of an order issued by the Executive Government, and yet we find the Advocate General contending before the High Court that the power of the High Court to pronounce upon the legality of the forfeiture, by reason of the failure to observe the mandatory conditions of the Act, is barred. I know there have been conflicting decisions on this point in the different High Courts, as to whether the High Court has power or not to pronounce on the legality of the action of the Executive Government under this Act. If there has been any conflict of decision, I should say that is an additional reason for an amendment of the Act. As to what should be the line of amendment it is not for me to suggest. If the Government thinks that it would be justified to reserve to itself absolute power...".

62. Resolution for Appointment of Advisory Boards to Assist in Making Assessments under the Income Tax Act*

The Hon'ble MR. MADHUSUDAN DAS said: "Sir, I had no intention of speaking on this motion; and, but for the remarks which fell from the Hon'ble Member who just sat down (Mr. Donald), I would not have made any remarks.

*On 14 January 1914 (p. 242).
Mr. Rama Rayaningar had moved:
"That this Council recommends to the Governor General in Council that Local Governments be consulted as to the desirability of advisory boards composed of non-official gentlemen nominated by the Revenue Heads of the districts being formed to assist officials in the work of assessment under the Income Tax Act.

Digitized by srujanika@gmail.com

"The Resolution before the Council is one which simply seeks that the Government General in Council should consult the Local Government as regards the desirability of establishing advisory boards. It does not go the length of asking the Governor General in Council that this Council should lay down any rule that advisory boards should be constituted under every Local Government. As a matter of fact, information has been laid before this Council now, during the discussion on this Resolution, that in some provinces at any rate these advisory boards have existed and worked with success, and their help has been appreciated by the Government. Consequently, under the circumstances, if such non-official advisory boards have proved successful and been of useful service in some provinces, it is very reasonable for any Member to ask the Governor General in Council that other Local Governments be consulted as to whether similar advisory boards should not be constituted under other Local Governments. The question as to whether a system which exists under the Bengal Government or any other Government is efficient does not arise at all in the present stage of the discussion, and is not within the scope of the Resolution which is before the Council. The arguments and the grounds which have been urged by the Hon'ble Member who sat down just now are of a character which do not at all support the supreme efficiency of the system which exists in Bengal. It has been said that so many appeals were made to the Collector and so many to the Commissioner, and, last of all, so many to the Board of Revenue, with the result that the Board of Revenue rejected all the appeals, and the Commissioner gave some help in a very few cases. What does that suppose? How can the Appellate Court do justice if there is actually erroneous and incorrect information at the bottom? The question before the Council is, Sir, as to whether advisory boards are not likely to be more helpful in giving information as regards the real income of any individual; and one has to compare whether the opportunities which an officer as an assessor has of collecting such information are better than the opportunities which local men living among the people and having opportunities of gathering information from their neighbours are likely to have.

"It has also been stated that the assessment is a matter which is confidential between the assessee and the officer, and

Digitized by srujanika@gmail.com

in the same breath it has been admitted that the officer consults other people informally. Where is there then the confidence between the assessee and the officer? He consults other people, gathers information from them and proceeds on the information thus received, and makes the assessment. I do not see where the confidence is maintained. On the contrary it has been stated that if an advisory board is constituted it is more likely to hamper and impede the work. Are we to understand, Sir, that persons who are taken into the advisory boards are likely to give more correct information? I should be inclined to think that a person who is charged with a responsibility and has a position of responsibility given to him by appointing him to a board would realize his responsibility better and be likely to give more correct information, at any rate information which is more reliable than that of a person who is at random consulted by an assessor when he visits the place, meets the man and asks for information; and the man who gives the information may be a man who bears a grudge to the person who is to be assessed. A board is more likely to be free from such bias in giving information, because it would be a body. Without taking into consideration whether the system existing in Bengal is sufficient or efficient, the Council has before it simply this Resolution, that the other Local Governments be consulted on the ground that the system has proved helpful and good and satisfactory under some Local Governments. With these remarks I support the Resolution."

63. Resolution Regarding Long-Term Land-Revenue Settlement*

The Hon'ble MR. MADHUSUDAN DAS: "Sir, I am very thankful to the Hon'ble Home Member for having put the question in a manner which has brought out prominently the real issues

*On 27 February 1914 (p. 605).
Raja Kushal Pal Singh had moved:
"That this council recommends to the Governor General in Council that opinions of the Local Governments be invited as to whether they consider it desirable and practicable to extend the period between settlements of land revenue from 20 or 30 to 50 years, in such parts of the country as have become ripe for permanent settlement, in accordance with the condition laid down in the Secretary of State for India's despatch of 1862."

Digitized by srujanika@gmail.com

of the case. The Government, according to the Hon'ble Home Member's exposition, is a trustee for the people, and it is the duty of Government to see a proper, just and equitable distribution of the increase that the land yields after a certain period. In making his remarks on the case, the Hon'ble Home Member pointed out that, if the terms of the settlement were increased, if they were made longer, the result would be that the benefit would go to the zamindar who is in no way bearing the burden of the toil which brings about better productiveness of the soil. We know there are estates, which are called *khas mahal* estates, where the zamindar is the Government and the tenant is the tiller of the soil. Reference in connection with this discussion has been made to countries in Europe and to the rules that have been applied there in revising settlements, but the one question that suggests itself is, is the condition of the ryot, the tiller of the soil in India, anything like what it is in Europe? Is there any tiller who may properly be called a person who invests his capital, who is interested in improvement of the soil, who actually is the person who reaps the benefit of a better state of agriculture? We know very well that the ryot is always in a chronic, impoverished position; he is in a chronic state of debt, and in his chronic state of debt it does not matter much how high the price of the product of the soil rises.

"In comparing the price of the produce of the soil with the rent and the enhancement of revenue at successive settlements, the Hon'ble Home Member said the increase in the settlement of revenue was nothing like the increase in the price of the produce of the soil. Though the produce of the soil increases, a very small part of the rise in the produce goes to the actual tiller. The tiller is always indebted. Before the produce goes to the market and fetches the market value, it passes through a number of hands and these are money lenders, people who have commercial motives, and the real tiller of the soil gets a very little of the increased value of his agricultural produce.

"In *khas mahal* estates where there is no zamindar, can it be said that the condition of the ryot has improved in proportion to the rise in price of the produce of the soil within the last

Digitized by srujanika@gmail.com

20 years? There is no zamindar there who runs away with by far the larger portion of the produce; it is a matter in which the economic situation is adjusted between the Government and the tiller of the soil.

"In the discussion of this resolution the last speaker, the Hon'ble Rai Sita Nath Ray, drew attention to the fact that every settlement means, not only an increase of rent, but it means a good deal of harassment to the people and loss to the tenant, loss of time, loss of money. I have had no experience of the settlement in the Central Provinces, but my experience of settlement in Orissa is that settlement is a thing which unsettles everybody and everything for a number of years. First of all there is the settlement; then there comes the revision of settlement, because what the Settlement Officers did was not correct, then follows in its wake for a number of years maintenance of records. So there is a perennial source of trouble to the ryot. Whatever settlement may mean in the abstract, settlement as it is known to the ryot means, not the visit, but the visitation of certain ill-paid Government officials, *amins*, to the village, who are not inspired by high patriotic or philanthropic motives. These are the men who inflict that visitation every year, and actual instances have been known where a single *amin* from a single village carried away, for instance, six or seven hundred rupees."

The Hon'ble MR. MADHUSUDAN DAS: "All that the resolution has asked for is that the several Local Governments be asked to give their opinion as to whether a longer term of settlement is not desirable in certain cases. It has been brought out during the discussion that different terms of settlement are in existence in different parts of India. Consequently all that is required now is to find out by reference to the Local Government whether it would not be desirable to make 50 years the minimum period. At any rate this is certain that the condition of the ryot ought to be improved and that cannot be done unless the ryot is sure that he is going to reap the benefit of his labours for a certain number of years. Certainly I agree with the Hon'ble Mr. Malaviya that, in case a settlement of this kind is made, every care should be taken that the greatest share of the benefit which would arise from such an arrangement should go to the tiller of the soil and certainly not to the zamindar.

Digitized by srujanika@gmail.com

"As the Government has taken upon itself the duty and the position of a trustee for the people, I hope they will realize the duties of a trustee; they will see that settlement does not become a system by which the people should suffer, and that the funds in the hands of the Government, if they come from settlement operations, are trust funds. Such trust funds should not be derived by inflicting anything which may be called a suffering on the people whose interests the trustees represent."

64. Resolution Regarding Recommendations of Decentralization Commission with regard to Municipalities, etc.*

The Hon'ble MR. MADHUSUDAN DAS: "Sir, the Hon'ble Mr. Banerjea in moving the Resolution yesterday, referred to Lord Morley's despatch, which he said should be considered as the charter of the reformed and enlarged Councils. That despatch is a unique document, because it contains reference to a policy which was enunciated in 1882 by the Government Resolution of that year. It also refers to the fact that though the policy was enunciated in 1882 it was not acted up to till the date of the despatch of Lord Morley. It then goes on to discuss the causes why the policy was not given effect to, and formulates instructions for the guidance of this Government in giving effect to that policy in future. Sir, I beg permission to refer to a certain portion of the despatch which contains reference to the Resolution of Government of 1882.

> 'It is not primarily', they say, 'with a view to improvement in administration that this measure is put forward and supported. It is chiefly desirable as an instrument of political and popular education.' There appears to be great force in the argument that so long as the chief executive officers are as a matter of course chairmen of the municipal and district committees, there is little chance of these committees affording any effective training to their members in the management of local affairs or of non-official members taking any real interest in local business.

*On 19 March 1914 (p. 905).
It was a continuation of the discussion on the Resolution moved by Surendra Nath Banerjea on 18 March 1914.

Digitized by srujanika@gmail.com

"Then it goes on to discuss why this policy has been a failure. 'If local self-government has so far been no marked success as a training ground, it is mainly for the reason that the constitution of the local bodies departed from what was affirmed in the Resolution to be 'the true principle' — that 'the control should be exercised from without rather than from within'. It goes on to show the reason why it had not proved a success, and then it proceeds to say that 'it would be hopeless to expect any real development of self-government if local bodies were subject to check and interference in matters of detail, and that 'the respective powers of Government and of the various local bodies should be clearly and distinctly defined by stature so that there may be as little risk of friction and misunderstanding as possible within the limits to be laid down in each case."

"We find here a Resolution of the Government of India which was re-iterated and re-affirmed in the memorable despatch of Lord Morley, and it contained directions for the future guidance of this Government. One of these directions was that there should be a statute which should clearly lay down the limits of power of interference, and prescribe the duties of the executive officers and of local bodies. This is the place where one feels inclined to ask this question as to whether, since the date of the despatch, any statute has been enacted to carry out this policy. Then, referring, in an earlier part to the Imperial and Provincial Legislative Councils, Lord Morley said, with reference to Lord Minto's suggestion, 'I gather, however, from your despatch of 21st March 1907, that you would at that time have preferred, as Lord Lansdowne had done in 1892, to build up the higher fabric on the foundation of the Provincial Council'. So it is clear to any one who reads this despatch through that the idea was to make a whole connected system having at its base these local bodies and at the top of the edifice the Imperial Legislative Council, the Provincial Legislative Council occupying an intermediate position.

"Sir, if this Council is really meant to be useful in the way of being a body that will co-operate, or at least so that the non-official members of this Council will co-operate and their co-operation will be helpful and useful to Government, it is absolutely necessary that the foundations should be looked to.

Digitized by srujanika@gmail.com

Very often non-officials make suggestions that do not find favour with Government, owing to lack of administrative experience. It may be that when we suggest any change on account of our want of experience we are not able to take into account the difficulties which a particular theory when applied in practice would create. No doubt non-officials are at a disadvantage so far as experience goes. But if it is intended to make their co-operation effective and useful, every attention should be paid to the foundations; and these foundations are in the local bodies, the municipalities and district boards. Lord Morley says in this despatch 'The encouragement of local self-government being an object of the highest importance in the better organization of our Indian system, it remains to be considered how far in each of the provinces it will be desirable to create a department for dealing exclusively with these local bodies, guiding and instructing them and correcting abuses in form analogous to the operations of the Local Government Board in this country. That however is a detail, though a weighty one, in a question on which as a whole I confidently expect that your Excellency will find much light in the forthcoming Report of the Royal Commission on Decentralization'. So this despatch contains a reference to the Report of the Decentralization Commission. Since the date of this despatch the Report of that Commission has been published; the report is dated the 25th February 1909, and one of the Members of the Royal Commission and the Secretary are Members of this Council. The recommendations of the Royal Commission ought to be considered as having very great authority, or, if I may use such an expression, double authority; first they are the recommendations of a Royal Commission and then they are referred to in a despatch which may be considered as the charter to this enlarged Council. When speaking on the Resolution before this Council yesterday, the Hon'ble Mr. Cobb pointed out to us that want of time and want of experience were the reasons why these municipalities could not command non-official chairmen. I beg to ask, as regards that part of his argument based on want of experience, is it not really making the gravamen of a charge against the people what really is neglect of duty on the part of Government? The despatch clearly shows, and the Resolution of 1888 clearly shows, that these local bodies should be considered as training

Digitized by srujanika@gmail.com

ground, that they should first of all be maintained as instruments for political and popular education and that they were not instituted with a view to the improvement of the administration; and now we are met with the argument that because there is no efficient administration to be had of the non-official public, therefore they should not have the position of chairmen of these institutions. That, Sir, in my humble opinion, is really making out of the neglect on the part of Government the gravamen of a charge against the people. What was really meant to be a training ground is now considered as the battle-field itself, where it is proposed to test the bravery and efficiency of the soldier. Then the Hon'ble Mr. Cobb also referred to paragraph 869 of the Commission's Report, and there read out that the Bombay Government, while keeping the executive power in the hands of an experienced official, provides a dignified post as a reward or incentive to public spirit and interest in municipal affairs. This is one of several paragraphs which come under the heading 'Presidency Municipalities'. This does not refer to municipalities generally, while the Resolution deals with municipalities generally It is very easy to distinguish between what is required of a chairman in a presidency municipality like that of Bombay or Calcutta, and a chairman who presides over a municipality with a smaller income in a small town with a much smaller population. There is at the end of the ... ".

The Hon'ble MR. MADHUSUDAN DAS asked for more time and continued: "Referring to the figures which were given to the Hon'ble Mr. Banerjea showing the number of nominated chairmen, I find that the number of elected chairmen is smallest in Bihar and Orissa. With reference to that the Hon'ble gentleman on my left has given an explanation. I beg to ask, has the spirit which underlies the despatch, that is to say, to induce the people to take an active part in the administration of local bodies, been exercised? The Hon'ble Mr. Walsh said that the Government was asked, and they complied with the request. The Report says that Municipal Councils should be able to delegate any of their administrative functions to individuals who may include persons not in the Council. If the District Magistrate was so minded, he could remain outside the Council and advise the chairman, if he was wanting in administrative experience, what to do; that would have been

Digitized by srujanika@gmail.com

really following the spirit of the despatches and the recommendations of the Decentralization Commission."

65. Resolution Regarding Election of Presidents of Rural Boards, etc.*

The Hon'ble MR. MADHUSUDAN DAS: "Sir, the discussion on the advisory Council which is a part of the Resolution moved by the Hon'ble Mr. Banerjea has brought into prominent relief a long and elaborate category of the duties of the Collector. It cannot be denied, nor has anything been said amounting to a denial of the fact, that the duties of the Collector have increased immensely within the last half century.

"If any one here of my Hon'ble colleagues remembers what a Collector used to be half a century ago, how much he was in touch with the people, I suppose he will join with me in saying that, that Collector has disappeared like the Phoenix without leaving even his ashes behind. It is a matter of fact that the ever-increasing demands of an ever-increasing administration upon the time and attention of the Collector have practically driven him to take shelter against public intrusion, against visitors, behind a barricade of red tape, files and papers. The number of vernacular languages has increased. It has been considered a libel upon the Civil Service, and expression was given to that feeling by the Hon'ble Mr. Arthur, because it has been remarked in certain quarters that the Collector of the present day does not know the vernacular languages sufficiently well to mix with the people and to know the feelings of the people. There was a time, I remember, when it was proposed to abolish a certain language — the Uriya language — and actually to substitute the Bengali language in its place.

*On 19 March 1914 (p. 948).
Mr. S. N. Banerjea had moved:
"This Council recommends to the Governor General in Council the adoption of the following recommendation made by Mr. Rames Chandra Dutt, a member of the Decentralization Commission:
(a) that the Presidents of the Districts and Subdivision Boards be elected,
(b) that Advisory Councils be formed to help the Magistrate Collector in the discharge of his executive duties,
(c) that a Local Government Board be formed in each Province for exercising control over rural boards and Municipalities.

Digitized by srujanika@gmail.com

Mr. John Beames took up the case. I should like any Collector of the present day to see all that he wrote on the subject, and tell me how many Collectors there are now who could handle a subject like that — a linguistic question — in the same masterly way that he did. Not only that but I know of grammars of vernaculars written by Collectors. Where is that Collector now ? "

The Hon'ble MR. MADHUSUDAN DAS: " Advisory Councils are not necessary. This fact has been very emphatically remarked by all the official Hon'ble Members who spoke on the subject. If the duties of the Collector have increased, and if the Collector feels it necessary that under the altered state of circumstances he should seek information from a certain body, and the Decentralization Commission say that he can have such information and such advice from the District Boards, I should say that that would be one reason why he should not be President of the District Board. Unfortunately, for some reason or another, the very presence of the Collector seems to have a paralysing effect upon the tongue or some other effect upon the cerebral regions of the members so that they cannot give free expression to their opinions. But the Collector is at liberty to consult that Board without being its Chairman. It has also been brought to the notice of this Council during the discussion that the Presidents of the Local Boards are elected. On the other hand these District Boards send their elected representatives to the Council. And yet the District Boards standing midway between the Provincial Councils and the Local Boards, have not the power of electing their own Chairman. As a matter of fact the Vice-Chairman very often does the duty of the Chairman and, while he actually bears the burden of the work, and the Chairman, the Magistrate, gets the credit for it, it is not likely that non-official gentlemen will find sufficient inducement to take up the work. Also in this connection one sees the very reverse of the natural order of things or what one would expect to be the natural order of things. We find that in the Central Provinces too they have the same privilege. Considering that the Central Provinces and the United Provinces were always considered behind Bengal, I should have expected that coming from a still less advanced Province, we should have had the advantage of electing our Chairman. But it does not

Digitized by srujanika@gmail.com

seem that a Province which is less advanced always has the advantage of electing its Chairmen. It seems as if the privilege of electing the Chairman — a privilege of local self-government had been extended to the people in an inverse ratio to their advancement in other respects. The simple reason seems to be, as was mentioned by the Hon'ble Sir Gangadhur Chitnavis that this was introduced by the Hon'ble Home Member when he was the Chief Commissioner of the Province, and I suppose the Hon'ble Sir Reginald Craddock has not left the reputation of being a very unsympathetic man behind him in the Central Provinces.

"With these remarks I support the first part of the Resolution that the District Boards should have the privilege of electing their Chairmen."

66. The Benares Hindu University Bill*

The Hon'ble MR. DAS: "My Lord, with regard to the objection that has been made by the Hon'ble Member who spoke just now (Mr. Ghuznavi) that we have not been furnished with a copy of the Bill beforehand, I should like to observe that this objection, which would apply in the case of some other Bills, does not apply in this case, because it appears from the Hon'ble Sir Harcourt Butler's speech that there has been consultation and discussion on the subject-matter between the Government on the one side, and those who are interested in the scheme on the other. Though I am one of those who did not see the Bill or did not know the contents or the details of the Bill, yet the Hon'ble Member in charge of the Bill has explained to us that it is not confined to Hindus only: the only peculiarity of the University will be that Hindus will be taught the Hindu religion, but the University will be open to persons of other religious persuasions.

*Proceedings, op. cit., 1914-15, Vol. LIII. p. 531 (22 March 1915). Hon. Harcourt Butler introducing the Benares Hindu University Bill said: "We are watching today the birth of a new, and many hope a better type of University. The main features of this University which distinguish it from the existing Universities will be, first, that it will be a teaching and residential University, secondly, that while it would be open to all castes and creeds, it will insist upon religious instruction for Hindus and thirdly, that it will be conducted and managed by the Hindu community and almost wholly by non-officials."

Digitized by srujanika@gmail.com

"The Hon'ble Sir Harcourt Butler said in his speech that ten years ago nobody would have considered this Bill a possibility. That shows, My Lord, that under a sympathetic rule, under a sympathetic Government, when the policy of the Government is to trust the people and to take the people into their confidence, Government can actually wipe away, as it were, from the history of the nation ten years' time, and bring them nearer the goal of their aspirations. That means a statesmanship for which Your Excellency's rule will ever be remembered. Sir Harcourt Butler in the course of his speech has taken a very modest share of the praise that is due to him, but let me assure him and the Government of India generally that we shall all be thankful for the step that he has taken, for it establishes the principle that the people, when they realize the responsibility of any steps they are prepared to take, may count on the Government's willingness to give them a helping hand. So long as education stands on a religious basis, it stands on a safe foundation. So long as the heart which sends up blood to the brain pulsates with the fear of God, no matter whatever be the religious persuasion of the student, — Hindu, Muhammadan or Christian — when his heart pulsates with the fear of God, the nutrition which the brain receives, the education which the mind receives, must be good and useful. And even in an atmosphere where there are a large number of Hindu boys who are educated under a system which attaches an importance to religious principles and teaches us that man is a creature of God, I have no doubt that better results will follow.

"I have heard in certain quarters and it is borne out by the remarks which have been made by the Hon'ble Member who spoke last (Mr. Ghuznavi) that this University will have a tendency to develop bad feeling between Hindus and Muhammadans and produce ultra Hindus and other evils which are the results of institutions standing on a denominational basis. I feel, my Lord, that people — educated people especially — are learning to discriminate between the articles of a man's faith, of a man and the reflection of his faith on his life and character in daily life; and as education grows, as time advances, this power of discrimination will increase and Hindus, Muhammadans and Christians will more readily co-operate in public

Digitized by srujanika@gmail.com

life and in works of utility than they do now. With these remarks, My Lord, I support the Bill."

67. Budget for 1915-16*

The Hon'ble MR. DAS: " My Lord, the Hon'ble Finance Member has received quite a chorus of congratulations and felicitations — those offered to him in the columns of the newspapers and those he has received here. But as the Member in charge of Finance is accustomed to deal with the smallest copper, a pie, I desire to offer my pie of congratulations which may, I hope, be acceptable to him.

" I associate myself with most of the remarks which fell from the Hon'ble Sir Gangadhar Chitnavis, and I wish to refer to the last paragraph of his speech in which he referred to Your Excellency's coming departure. He referred to it with a sense of regret: no doubt, if it does come to pass, it will be a cause of regret. My Lord, misfortunes have often overtaken India, and the most recent misfortune was one to which reference was made by the last few speakers; I mean the attitude of the House of Lords with regard to the recommendations for an Executive Council for the United Provinces. Misfortunes have befallen India, but the worst misfortune would be that which would remove the commander of the vessel at a time when a storm was blowing, when the waves were dashing against the ship of administration, when there were small clouds on the horizon, the future magnitude of which could not at present be gauged. To remove the commander of the vessel at a time like this would be perhaps the worst calamity that has befallen India. It is not the qualifications of the captain, of the commander, the man at the helm that count. He may have any amount of knowledge of steering his vessel, but the most important thing in troublous times is the confidence of the people in his efficient commandership. If the people have no confidence in him, the people themselves will contribute to the destruction of the vessel, whereas if the people have confidence in him, their conduct, their behaviour, their steadiness, will save the vessel in perilous times. I do

*On 25 March 1915 (p. 611).

Digitized by srujanika@gmail.com

hope that such a calamity to India will be saved by the King, as I am sure India will be saved from such a calamity by God.

"My Lord, about this time last year, I asked one or two questions in this Council in order to ascertain the number of Indian Christians in India, and as to whether there were any special provisions with regard to their education. The answer given to me was that the number of Indian Christians is a little over 3½ millions, and in answer to the question whether there was any special provision made for the education of this class, Government said, 'It is understood that special provision is made in certain places for the education of Indian Christian boys and girls, but the Government of India have no precise information on the point'. There is no provision for this purpose even in the present Budget. This answer shows that the Government of India have left 3½ millions of people in the cold. There is actually an apathy, there is a want of concern in the education of these people; and it is no wonder that abroad, thousands of miles away from this place, queries have been put as to whether the Indian Christians have not rendered themselves useful to Government in public services, and useful generally in the private walks of life. If that community had a representative here, he would certainly have been in a position, from his seat of authority, to answer those questions, to show how unjustifiable, how underserving — if the Government of India means to show apathy to this class — is such apathy. But there is no representative of the class here, and consequently, as a member of that community, I beg to draw the attention of Government to the fact that in several departments, almost in all departments of the public service, members of the Indian Christian community have rendered distinguished service. If we go to the Medical College in Calcutta, we shall find that there have been professors who have rendered very useful service and added to the popularity of the institution. If we go to the Senate House in Calcutta, we will find there things to remind us that the Indian Christian community has not been behind other communities in fostering and helping onward the progress of education. It will not be possible for me to refer to the lives of these men, for if I were to do so, I suppose the time limit would terminate my articulate life here long before I could describe their lives.

Digitized by srujanika@gmail.com

"My Lord, as regards the loyalty of the Indian Christians, that was put to a very severe test in the last century, and yet I find that, notwithstanding the answer given a year ago, there is no provision in the present Budget for the education of the boys and girls of the Indian Christian community; and yet there cannot be the least doubt that they have need of special education; and the reason for this neglect seems to be that they have no representative in this Council.

"My Lord, it is a strange and curious fact that the Indian Christian community is the only Indian community whose laws of succession, marriage, testamentary dispositions, and divorce were forged on the anvil of this Legislative Council. Laws of succession, laws of marriage form as it were the foundations of any society or community. Hindus and Muhammadans have their laws which are drawn from the *Shastras*, etc., and those laws of succession, marriage, and divorce, which apply to Indian Christians at the present day, were not made to suit the requirements of that society, but though they had been originally framed to suit the requirements of another society, they were extended to this society. So it was really like putting new wine into old bottles. The result has not been very favourable, but simply because there is no representative of this community on this Council, the inconvenience which it suffers has not been brought to the notice of the Government. The last census shows that between 1901 and 1911 the community has grown by 32·6 per cent. It has been more than doubled since 1881 and it has been trebled since 1872.

"In referring to this matter, I should like it to be distinctly understood that it is not my intention, far from my intention, to disturb any of the existing representatives in this Council. The Indian Christian community have been treated with kindness and confidence by the Hindus, Muhammadans and non-official Europeans. Electorate bodies consisting of these men have elected Indian Christians as their representatives in the Legislative Councils. I would be earning for myself and for the community ingratitude if I were to say that there should be a seat for the Indian Christian community at the expense of any other community. But what I do believe, Sir, is that there is ample room if the latch of the door is a little slackened, there is ample accommodation for one more seat. I will

Digitized by srujanika@gmail.com

conclude this part of my appeal with the Latin expression *at spes non fracta.*

" Reference has been made, My Lord, very often in this Council to the industrial problem before us and the question was raised in very eloquent terms by the Hon'ble Mr. Banerjea when he was addressing the Council a few minutes ago. The insistence with which this question has been brought forward, the earnestness with which it has been pressed forward, shows that there is a very strong feeling in the country about it. At least I should like to draw the attention of Government to the existence of such a feeling. The feeling in the country is that Government ought to feel its obligation to help the development of industries in this country. Every Government, of course, is under the obligation to develop the industries of the country in order to bring about an increase in the prosperity of the country; but in this particular case an additional moral obligation has been superadded. There has been an industrial awakening in the country during the last few years, and this industrial awakening has led to a study of the industries of India in the past. As a study of history of the past has led the people to believe that the decadence, decline and the present wretched condition of industries in India are due to a great extent to the insalutary influence of British rule. That is the feeling of the country and hence arises a moral obligation on the part of Government. That is the feeling of the weaver who has taken to the plough, leaving his loom; that is the feeling of the artisan whose hand stands paralysed today; that is the feeling of the artisan's son who took to English education with a view to get employment as a clerk, but failed to secure such employment; and that is the feeling of an old man who has associated intimately with artisans during the last quarter of a century and has noticed their struggle for existence. We Indians, My Lord, always look upon people in authority with feelings due to a father and naturally expect sympathy from them. I know feeling is mere sentiment, and a sentiment has no value at the Royal Exchange in London; but a sentiment is an invaluable asset to the credit of a foreign Government. I do not wish to go into the details as to how and under what circumstances British influence exercised an insalutary influence over Indian industries. That may land me on dangerous ground.

Digitized by srujanika@gmail.com

That may lead me to exhume the bones of people in authority who exercised their influence and the influence of their position and authority to bring about injury to the interests of India and such dead bones turn living human beings into dogs. At a time like this, when we were driven the other day to the necessity of passing an emergency measure for the safety of the Empire, I do not propose to enumerate or analyse or examine the reasons. I have very often noticed that the Hon'ble Member in charge of Commerce and Industry in his replies used the expression 'Government cannot do this, Government cannot do that'. While listening to these replies sometimes, My Lord, I felt as if I was listening to the voice and the sentiments of the London Chamber of Commerce, and I admired his speech as a successful feat of ventriloquism. My Lord, such replies in a debate in this Council do not produce the balm of Gilead to disappointed feelings; they simply tend to intensify the feelings.

"My Lord, I feel that, at no time in the history of England were the principles of international justice, the principles of international morality, and those noble principles which regulate the reparation for wrongs done by a stronger nation to a weaker, at no time were these principles so prominently before the British nation as they are now; in consequence of the wrong done by Germany to Belgium. The whole nation's sympathy has been aroused. The whole nation has been roused with righteous indignation and millions have formed themselves — the whole nation in fact, young and old, rich and poor, have formed themselves into one body, one soul — the whole nation is (as if it were one man) inspired with a martyr's fiery zeal. On the other hand we have a Viceroy whose keynote of administration has been sympathy for the people and confidence in the people, and who has abided by that policy in times of suffering, bereavement and trial. I should at this time beg, entreat and beseech the Hon'ble Member in charge of the Department of Commerce and Industry (unfortunately he has gone away at this time) to take note of this: not only to concentrate his attention on the economic principles which govern commerce in England, but to take note of past events in the past connection of England with India; to take note of the moral obligation which arises out of that past connection,

Digitized by srujanika@gmail.com

and to address himself to the problem before him; to take the people into his confidence and then to sit down and see if anything can be done to help the people in this industrial awakening ... ".

68. Defence of India (Criminal Law Amendment) Bill*

The Hon'ble MR. DAS: " My Lord, we passed the other day a unanimous resolution, which was intended to be communicated to His Gracious Majesty, in which we gave expression to the determination of the immense population of this country to secure success in the war at any sacrifice, and Your Excellency was pleased to communicate to this Council today the fact that this resolution was communicated to His Majesty and read by him with pleasure. We have also just received the news from Your Excellency that the Indian troops are behaving in a manner at the front which has won for them the admiration and praise of European officers. It is really very painful, My Lord, that, at a time like this, this Council should have been under the necessity of passing a Bill which is of an emergent character and which has been demanded on account of the gravity of the situation, the nature of which is known to Government.

" Those people who at a time like this do anything which casts a slur on the loyalty, the past history and the traditions of the Indians are to be considered as the worst of miscreants and in my opinion no drastic measure ought to be considered as too severe for them. There is also, no doubt, from what has transpired these last few years, that there is a class of men who are gathering members round them, growing in numerical strength and perhaps in influence too. A measure of this nature, as is before the Council, a measure of this character ought not to be considered from our point of view only, but it has also to be looked at from the point of view of that class of men whom I can best call our enemies. From the fact that this class is growing by converts from peaceful citizens and

*Ibid, p. 484 (Date 18 March 1915).
Sir Reginald Craddock introduced the Bill to provide for special measures to secure the public safety and the defence of British India and for more speedy trial of certain offences.

Digitized by srujanika@gmail.com

they are using their influence to increase their number, anything in a measure of a legislative character which is ambiguous or which is of such a nature as would give them an opportunity to make people believe that this Government is of an arbitrary character would be an instrument in their hands, which they would use to their advantage. I have looked at the Bill from that point of view; and while I consider it my duty to give my whole-hearted support to the Bill, I should like the Hon'ble Member in charge of the Bill to look at it or certain portions of the Bill from this point of view and see whether it is not likely to be an instrument in the hands of our enemies and used by them as evidence of the arbitrary power of the Government. One section provides that this special Tribunal will try offences which are tried in the ordinary courts and are punishable under the Penal Code. I find that there is a provision for cases in which punishment is ten years' rigorous imprisonment and there may be cases of criminal breach of property or ordinary cases of arson, and yet at the same time I find that this clause does not include cases of rioting which are more likely to have a political aspect; consequently, the section ambiguously or carelessly worded as it stands would be considered by our enemies as an instance of Government's object to have an arbitrary power in regard to ordinary offences which are ordinarily triable in the ordinary courts. Another instance to which the attention of Your Lordship has already been drawn is that the judge should be one of longer experience than one year, and also that capital punishment should not be awarded in cases when there is any doubt. But in the circumstances, as I consider that no punishment could be too severe for these men and as we have full faith and confidence that under Your Excellency's Government this Act will never be used in such a way as really to bring under its purview men who are really friends and loyal subjects of the Empire, I do not consider it necessary to repeat amendments which have been made. I do really hope that the Hon'ble Member in charge of the Bill will take into consideration this fact as to whether section 3 might not be amended so as to give no occasion to our enemies to consider it as evidence of the arbitrary power of the Government and at the same time it should include those cases of rioting which are liable to have a political aspect attached to them.

Digitized by srujanika@gmail.com

"With these words, My Lord, I give my whole-hearted support to the Bill."

The Hon'ble MR. DAS: "My Lord, I support the amendment."

69. Questions and Answers

The Hon'ble MR. DAS asked:

10. "(a) Will the Government be pleased to state whether the expression 'Local Government' in paragraph 1, rule 1, of Home Department Notification No. 147, dated the 19th January 1905 (regarding the submission of petitions to the Government of India by private persons or public bodies) has a wider signification than its statutory definition?

(b) If the expression is used in the above-mentioned notification in a wider sense, do the Government propose to give reference which may help the public to know the exact connotation of the expression in the above-mentioned rule?"

[22nd March 1915]

The Hon'ble MR. DAS asked:

11. "Has the attention of Government been drawn to an article headed 'The case of the Raja of Puri' which was published in '*The Bengalee*' on 12th February 1915?"

[24th March 1915]

The Hon'ble MR. DAS asked:

7. "(a) Did the Government of Bihar and Orissa, during the year 1914, forward to the Government of India quarterly lists of petitions which were withheld by the former Government, giving reasons for withholding them?

(b) If such quarterly lists were received during the year 1914, will the Government be pleased to lay on the table copies of the same, with the reasons for withholding them?"

Digitized by srujanika@gmail.com

70. Resolution Regarding Indian Vernaculars in Secondary Schools*

The Hon'ble MR. DAS: "Sir, the Hon'ble Mover of the resolution has called the graduates of the University an unproductive class. Unfortunately I am one of that class; and I hope that at any rate I will be able to show that I have been productive of an opposition to this resolution, and to a certain extent productive of some reasons for that opposition. The question that is before this Council is not whether vernacular education should be done away with. As a matter of fact in the present system of education which obtains in the schools vernacular is taught, vernacular is the medium of instruction up to a certain standard. But the Hon'ble Mover has brought before this Council a resolution by which it is intended to extend this medium of instruction to secondary schools. In the first part of the resolution he said that the resolution should commend itself on the basis of principle, practice, and authority. No doubt he has quoted principles and he has quoted numerous authorities, but I did not see any instance where it has been successfully practised in India. In opposing this resolution I must also say that I am sorry to oppose the amended resolution put forward by the Hon'ble Mr. Banerjee, or his suggestion, if he prefers to call it so; and for the reason, that the Hon'ble Mr. Banerjea has not given any additional reason to show that the time has arrived when a departure from the system of policy that has been followed hitherto by the Government of India is desirable or called for. There is a good deal of force in the argument that vernacular or the mother tongue is always a better medium of instruction to young people. And why is that so? Because the child learns the language from the cradle. Thoughts and objects suggest themselves to the mind first and then come the words. That is the order of sequence in the intellectual development. First come the objects and the ideas; then the words are necessary and are acquired or

*On 17 March 1915 (pp. 433-35).
Mr. Surendra Nath Banerjea moved:
"That this Council recommends to the Governor General in Council to consult the Provincial Governments and Administrations whether it is possible, and if possible to what extent to take steps to make the Indian vernaculars the media of instruction and the study of English a second language compulsory for all Indian pupils in all secondary schools."

Digitized by srujanika@gmail.com

learnt; the surrounding of life are familiar to the child and consequently with its surroundings the child begins to pick up words which give expression to the daily life; the mother language is nothing but an expression of the daily life of the individual.

"Vernacular, we know, is a term derived from *verna* — a home-born slave.

"Slaves were exiles: they did not know the surroundings of the life of the men who bought them. Therefore a home-born slave was considered valuable because he was familiar from his childhood with the surroundings of life. What do we find here? A child has to learn an altogether foreign civilization, ideas quite foreign to us are taught, the civilization itself is quite foreign to us. The Hon'ble Mover of the resolution admits that everything is deficient, there is a deficiency in nomenclature, want of proper text-books and competent teachers. That being so, we are driven back to the days when Lord Macaulay tried to solve the problem; the British Government had to face this problem then; they had to teach a foreign civilization; these people had not a vernacular rich enough to serve as a medium of instruction and therefore they decided that English should be the language through which this civilization should be taught. Now, are we any better off than we were on that day? It is admitted that the vernacular literature is deficient, it is wanting in nomenclature, it is wanting in books, it is wanting in teachers. Are we therefore any better off than we were in the days of Macaulay? In fact, this resolution, if I may say so, is not a resolution; it is an attempt at a resolution of the difficulty which Macaulay had to face. Then, again, if we adopt the vernacular as the medium of instruction, we shall be driven to the necessity of importing words from English, either the translation or transliteration will have to be adopted. The transliteration of a word which conveys an idea which is foreign to the people is no more lucid or better than the word itself, with this argument against it that the pronunciation becomes defective. Take for instance the word 'Switzerland'. You cannot teach young boys to pronounce the word correctly. How is the 'Z' to be pronounced? It will be pronounced '*Swijerland*'. Take the word 'sanitation', it would be written as '*saynitation*'. Anybody who has attended medical schools where boys are taught through the medium of the vernacular knows

Digitized by srujanika@gmail.com

that when the rolls are called they often say 'presaint', and we know that civil medical hospital assistants are trained through the medium of the vernacular; they cannot write a prescription. You cannot write a prescription without the symbol, that medical science uses for the doses of medicine. If my friend the Hon'ble Sir Pardey Lukis were present here, I am sure he would say that we cannot do away with these Roman symbols and abbreviations; no chemist would understand the prescription. Now, the Hon'ble Mover admits there are many vernaculars. There is more than one vernacular in Bombay and Madras. Well, in Madras itself there is more than one vernacular and he suggests that the Province be divided into subdivisions and he goes the length of suggesting that in certain schools where a particular vernacular is not taught certain students should be excluded. Now where is the necessity for all this? In Madras there is Tamil and Telgu and a large proportion of the population is Ooriya too. I believe the next proposition would be to exclude the Ooriyas from the schools. I ask how shall we be better off than we have been hitherto if such a resolution is accepted now? In fact, the Hon'ble Mover's suggestion reminds me of an idea of a luxurious life that a beggar had conceived on seeing a rich man drinking a cup of milk; he was in a hurry and was blowing it with his mouth in order to make it cool. The beggar thought this was the height of luxury on the part of the rich man and he thought he would like to have a cup of milk too when he returned home, but there was no silver cup and he only had his mouth to blow with. These remarks apply to the resolution. What have we, we have no language, we have no nomenclature, we must take the nomenclature of the West. Reference has been made to the practice in European countries of giving instruction through the vernacular of the pupils. We must not lose sight of the fact that the civilization in these European countries has been the result of evolutionary growth. The civilization has grown in a country, with it the requisite nomenclature has grown and developed, because man has, as it were from his childhood, his cradle, found the necessity for expressing the surroundings of its life. Here we have altogether a foreign idea. If the mother tongue is not sufficient to give expression to the ideas that the child is required to learn, if the mother stammers or does not speak distinctly enough,

Digitized by srujanika@gmail.com

it is no use trying to supplement the defects of the mother's language by a gramophone and call it mother-tongue.

"I am sorry, Sir, I cannot support the resolution or the suggestion made by the Hon'ble Mr. Banerjea."

71. Resolution Regarding India's Gratitude, Devotion and Loyalty to His Majesty The King*

The Hon'ble MR. DAS: "His Majesty's visit to India opened a new era in the political life of Indians. It seemed as if the gates of heaven had been suddenly opened and a flood of light broke upon the immense population. They had believed that their sovereign was God's Vicegerent on earth. They saw the object of their faith and realized the truth of it.

"On several occasions when the crowd eager to feast their eyes on the royal personage were held back by the police, His Majesty responded to the wishes of the crowd. Most likely His Majesty expressed his sympathy in words like these 'suffer those men to come unto me and forbid them not, for they are the children of my Empire'. This sympathy reminds one of a memorable instance in the life of one who was greater than all earthly kings.

"Owing to these and other incidents of a similar nature, proving His Majesty's sympathy for the people, their abstract notions of loyalty developed into attachment and devotion to the Royal personage.

"These sentiments in their turn developed the responsibilities of the subjects to preserve the glory of the Crown, to support the dignity, honour and prestige of the sovereign.

"In the *discharge* of these obligations the millions of India are ready to give their life, limb and property.

"A *river* runs its course over miles and miles to meet the ocean, to be merged in the ocean and form a part of the mighty ocean. But when the river reaches the sea, the sea for a time refuses to absorb the *muddy* waters of the river.

*Proceedings, ibid, p. 267 (24 February 1915).
Mr. M. S. DAS himself moved this resolution on 24 February 1915.

Digitized by srujanika@gmail.com

"During this period there is a boundary line showing the difference in colour of the two waters.

"Such is the position of India in the British Empire. India occupies a place in the outskirts of the British Empire.

"As the river longs to merge in the sea and lose its distinctive identity, so had India looked forward to the day when she would form an integral part of the British Empire, when she would be allowed in the privileges of the Empire and bear the burden of the Empire in times of trouble and danger. This long cherished hope of Indians was fulfilled when Your Excellency sent Indians to the theatre of war. We consider this an invaluable boon. The theatre of war is the altar where sacrifices to the honour of the Empire are being offered. It is the stage where the history of the Empire is being acted and its glorious future foreshadowed.

"How our countrymen have acquitted themselves in the discharge of their respective duties, it is not for us to recount. We are grateful to His Majesty for having recognized the services of some of them in a manner of which any soldier in Europe would be proud.

"The words which His Majesty addressed to the Indian soldiers at the front constitute a *commitment* of the honour, prestige, and the righteous principles of British administration to his millions of subjects in India.

"This *Royal Commission* comes to us through our brethren at the front, who are shedding their life blood to earn for us the privilege of being reckoned as worthy citizens of the British Empire. Hence it comes to us as a heritage with a sacred duty attached thereto. The heart of the nation has been moved, and the nation's resolution to spare neither life, limb nor property to secure success in the war stands firm and unswerving.

"The *sympathy* shown by His Majesty to the wounded soldiers has put a tongue in every wound, which exhorts the Nation to persist and persevere in their *resolution to uphold* the prestige of the Empire.

"*Having put* our hand to the plough, we cannot turn back till the furrows are deep enough to serve as graves for the enemy.

Digitized by srujanika@gmail.com

"The British Empire, like the mighty ocean, has been roused to fury. All the streams in the British Empire over which the sun never sets are pouring their waters to swell its volume. It's mighty waves with Britannia riding over them will soon sweep away all opposition, and then the British Empire, like the calm sea, will once more pursue its benevolent objects to give peace and prosperity to mankind.

"It is believed that Germany expected that India would support her in this war. If Germany harboured such an absurd belief it only shows how the West is often mistaken in its reading of the *Indian character*. It is all the more remarkable that this mistake should have been made *by a Nation* which claims to have made a special study of ancient Indian literature.

"What is this war? Is it not a war between the moral forces of humanity and brute power? The object of the war is to establish the supremacy of brute power over all that is good and noble and virtuous in man.

"Germany made remarkable progress in the cultivation of science and literature. Science and literature are monuments testifying to the victories of humanity over brute power.

"Who ever thought Germany concealed an assassin's knife under an academical costume, with which she wishes to stab humanity in the head and heart.

"The great national epic, *Ramayana*, describes a war just like the present. It was a war between an exiled prince, spending his days in the jungles, on the one side, and — his antagonist was a ten-headed monster — a reigning king with an enormous army composed of trained stalwart soldiers But the forlorn prince had a *righteous cause* and *the moral forces of a saintly personal character*. When the exiled prince decided to punish the monster king for his unrighteous and impudent conduct towards a virtuous, helpless lady, his righteous cause and his moral character attracted an immense army to support his cause.

"The poet says even the animals rendered voluntary service.

"The result was the ignominous death of the monster king.

Digitized by srujanika@gmail.com

"The present war resembles the one between Rama and Ravana. It is the *Ramayana* of Europe.

"How intense was the sympathy of the Indians for the virtuous prince, and how intense their hatred of the monster king, may be judged from the fact that, though centuries have elapsed since the epic was written, even at the present day, in the most remote villages, this war is reproduced *annually* in *Jatras* (a primitive form of the stage), and the people rejoice to see the defeat and ignominous death of Ravana.

"It is absurd to suppose that a country whose *millions worship the virtuous* hero of *Ramayana* and *anathematize* his opponent, would sympathize with Germany in her ambition to subject humanity to brute power. We Indians do not believe in the power of the sword to rule over mankind. The sword may slaughter and make massacre, but the sword can never displace the sceptre which it is meant to guard.

"In the past, in the primitive stage of society, the sword was used to kill animals which were the enemies of man, and now it is used to kill Germans, who are cousins-german of beasts.

"I am confident I am giving expression to the feelings of my countrymen, inside this chamber and outside its walls, when I say that India is resolved to risk all she possesses to secure the defeat of this enemy of humanity.

"Though at present we do not bear arms, but our bare arms will bear arms at the first call of duty.

"We know that this war will cripple our means, which would otherwise have been available for the improvement of the condition of the people and the administrative machinery, but this means only a postponement of the needed reforms for a future time; whereas the success of the enemy means the replacement of justice, morality and the principles of civilized administration to brute power. Our success in this war will mean a century's peace and prosperity to the World, and no price is too high in such a bargain.

Digitized by srujanika@gmail.com

"With these remarks, I move the following resolution:

'This Council recommends to the Governor General in Council the communication to His Gracious Majesty the feelings of sincere gratitude, devotion and loyalty with which the immense population of India have been drawn towards the throne by His Majesty's personal attention to Indian soldiers in the theatre of war and in hospitals, and the consequent unswerving resolution of the Indians to support the honour, dignity and prestige of the Empire regardless of the sacrifice it may entail them'."

The Hon'ble MR. DAS (p. 277): "I am very thankful to His Excellency the Commander-in-Chief for his suggestion, and I most thankfully accept the resolution as amended by His Excellency."

72. Resolution Regarding State Management of Railways*

The Hon'ble MR. DAS: "Sir, I had no intention of speaking on this resolution, which, as the Hon'ble Mr. Banerjea said, is a very simple one, if you look at the resolution as it is worded. The resolution simply requests that the Governor General in Council will consider whether the policy that now exists with regard to the management of these railways should continue in view of past experience on a review of the result of the past management, or whether there should be a departure and a new system should be introduced. If the resolution, as worded, is accepted these questions would have naturally to be decided and discussed by men who are experts in this line. But the discussion has been drawn into a wider area and opinions have been expressed on matters on which even a layman feels inclined to take a part in the discussion. The two or three Hon'ble Members, the Hon'ble Mr. Reid and the Hon'ble Mr. Setalvad and the Hon'ble Mr. Monteath who have

*Ibid, p. 590 (24 March 1915).
Sir Ibrahim Rahimtoola had moved on 24 March 1915:
That this Council recommends to the Governor General in Council to consider the desirability of the future policy in regard to State railways being one of management by Government instead of by managing companies.

Digitized by srujanika@gmail.com

spoken opposing the resolution, have said (that is the Hon'ble Mr. Monteath and the Hon'ble Mr. Setalvad have said) that they do not like to express any definite opinion as they are laymen. As regards the Hon'ble Mr. Reid, he says that the managing agency system may be improved. So far as the opposition goes, nobody has given any definite opinion to the effect that the present system has been eminently successful and should be continued. So no reason whatever has been shown as to why the resolution as it stands, which is that it is *desirable* that the matter should be reconsidered, should not be accepted. We have been referred to questions of a very important character, and the matter has been viewed in the light, as it were only of a question of commercial importance. I ask, Sir, is the railway system in India to be managed merely on the grounds of profit and loss? Is it actually a commercial business? Have the railways no other purpose to serve? We have been told that, to remove the present system of management would kill competition. Is the management of the railways in India to be thrown open to world competition? Any managing Company that undertakes to work it on the smallest percentage of return, is such Company to be allowed to manage it? What would it be if a German Company undertakes to work it on the cheapest lines? Sir, mere financial considerations should not outweigh other considerations for which it is the duty of the State to maintain railways. Managing agencies are always influenced by commercial motives. When we were discussing the Companies Bill, the Hon'ble Member in charge of Commerce and Industry observed that managing agents sometimes might use their influence to the detriment of those who are really interested in a Company, and we were told then that he (Hon'ble Member for Commerce) had received opinions to that effect. I do not know what his opinion with regard to managing agents is now. If he has changed his opinion, I would congratulate the managing agents of railway Companies. At any rate, Sir, a thing, whatever it be, which Government has to maintain for the growth of prosperity of a country, for strategic purposes and for other purposes of a very important nature, should not be controlled by commercial influences or motives only. The dominant motive ought to be something other than commercial. We have had experience of commercial motives dominating over other more important

Digitized by srujanika@gmail.com

motives in the case of the East India Company, and we know how objects which are of a nobler nature, which are more befitting the position of a Government were sacrificed to commercial motives. In fact, anything in which the people are interested, and in which the Government is interested, should not be allowed to be controlled by commercial motives only.

"It has been said that to deprive the managing agents of the control of these Companies would be subversive of the principle of decentralization. As far as I understand decentralization, it means that there must be a central authority, and delegation of the powers of that authority descends to other subordinate authorities. What is sought here and was expressly advocated by the Hon'ble Mr. Reid, was to increase the power of the manager on the spot, and to let the Home Board of Directors remain as it is. Where is the central power of this present decentralization system? Would this all powerful manager be the central authority? If so, why have this Home Board? Decentralization must have a central authority from which flows all authority by means of delegation.

"Sir, the supreme consideration which ought to guide Government in determining the system of management for these lines ought to be the interests of the people. The Mover of the resolution has referred to certain instances where the industrial interests of the people have suffered under the present management, and we have managing agents who represent the commercial interests of another country of a foreign character. What guarantee is there that we are not unwittingly being carried back to the days of the East India Company?

"As regards expenses and how it will be a saving, much has been said; therefore, I will not repeat them. Besides that, I am not sure when the guillotine of the time-limit is likely to descend on me. With these remarks, Sir, I support the resolution."

73. Budget, 1916-17*

The Hon'ble MR. MADHUSUDAN DAS: "My Lord, it is very late, but I want to say just a few words. I thoroughly

*On 24 March 1916. Proceedings, op. cit., 1915-16, Vol. LIV, p. 550.

Digitized by srujanika@gmail.com

associate myself with the words of congratulation that have been offered to the Hon'ble Finance Member. I should like to add that we have reason to congratulate ourselves that we have such an able Finance Member at the present anxious times. It was our highest aspiration to rise to the same level as the other parts of the British Empire. Your Lordship's Viceroyalty has been distinguished by this that you have tried to raise us. Whatever other Viceroys may have done to improve the condition of one class, or to open appointments to certain classes, you, my Lord, have tried to raise India to the same level as other parts of the British Empire. Fortunate or unfortunate I am inclined to look upon the war as providential. Just at this time war has come, and India has been put to the test. There are many critics who do not believe that India is loyal, but Indian loyalty has been put to the test. We have a Finance Member who is more anxious to raise and protect the honour of India. He is more valuable to us than a person who is only concerned with the pocket of India. The last time in this Council when one of the Hon'ble Members made some remarks which went to show that India did not do her duty to the Empire at this critical time, Sir William Meyer defended India and added the words 'I love the people of India'. I think we should congratulate ourselves that we have such a lover of India as the Hon'ble Finance Member at this time. As some remarks have been made with regard to the salt tax, it should be remembered that the Budget is a cast iron, cast in England, a seagirt island — and it is a matter of no great wonder if it absorbed saline matter there, you may blow as hard as you like you cannot melt it, consequently it remains there.

"My Lord, I should not be doing my duty if I did not on an occasion like this express the feelings of the people of Bihar and Orissa to your Excellency. When you landed in India as Viceroy, with the rest of India, Bihar and Orissa welcomed your Lordship as a Viceroy, but your special attention to that baby province, to the needs of the province and all that has tended to give it a proper status with the rest of India, has thrown a tenderness around the feelings of the people which I shall not attempt to describe for fear that I might destroy that tenderness. At the commencement of your Lord-

Digitized by srujanika@gmail.com

ship's *regime* the sky of India was overcast, but on account of your Lordship's statesmanlike steerage, India was soon brought to regions of sunshine and brightness. Your Lordship's sufferings and sacrifices have been enormous; you know the extent and intensity of them. I shall not attempt to describe them, nor can any man; the gratitude of India is written in tears of sympathy on the scroll of a nation's heart, and it may be some satisfaction to your Excellency to know that the example of your Lordship's sacrifices have not been lost as lessons upon the nation; they have borne fruits, precious and invaluable to the Empire, that fruit is India's resolution, at any sacrifice, to uphold the dignity, the honour and the prestige of the British Empire. It is the unanimous hope of the province from which I come and of the whole of India that God may grant your Lordship robust health, long life and prosperity, and may fortune and fame attend you in your future course in the world to which you are proceeding. When the sun the luminary of the day has done its duty in the east and goes down the horizon to the west to run its glorious course there, it does not leave the east in darkness. Your Lordship's sympathetic tone and progressive policy will be left behind, and we shall share them in the doings and policies of those Members who were associated with your Lordship in bearing the burden of the Empire. Just as, when the sun sets, we get the reflected light of the sun in the moon, so we shall have the reflected light of the policy of your Lordship in the Hon'ble Members of your Lordship's Executive Council."

74. Indian Income Tax (Amendment) Bill*

The Hon'ble MR. MADHUSUDAN DAS: "Sir, judging from the speeches that have been made on this Bill, we are all agreed that there should be no attempt on the part of anybody to oppose the new taxation which has been necessitated by the war. But while there is a positive and marked reluctance to withhold any money which Government wants to meet the emergencies of the occasion, some Hon'ble Members have thought

*Proceedings, ibid, p. 245 (7 March 1916).
Sir William Meyer presenting the Report of the Select Committee proposed to amend the Income Tax Act — 1886.

Digitized by srujanika@gmail.com

it fit — or rather, I should say, have considered this a proper and fitting occasion — to refer to what they would like to describe as erroneous administration in the past. If we once admit that there is need for extra taxation necessitated by the emergencies of the present moment, and that we should not withhold our acquiescence in it, I do fail to understand what good can be derived from going to the past or criticizing the administration of the past. It may be that millions might have accumulated in the shape of surplus. It is true perhaps that the actual surpluses have exceeded the anticipated surpluses. But Hon'ble Members should not lose sight of the fact that these surpluses have been spent as capital outlay, which means, all those comforts, facilities and conveniences of civilized life, without which we should not have been proud as subjects of the British Empire, which we are today. The very fact that the actual surpluses have exceeded the estimated surpluses proves that at any rate the Government of India has not been playing ducks and drakes with the money, but that great care has been taken in its expenditure. It may be that a closer scrutiny into the finances might have swelled the actual surplus a little more, but those are things of the past and my outlook is of the future. For the present I am content to bear the burden that is put on my back and shoulder, but I look forward to a brighter future. That should be and is my position at any rate. And if the English nation, if the Government of India, if the Secretary of State or the India Office, if any of these do not do their duty, well, that will not be our fault. The war has awakened the world's conscience; the war has opened the eyes of all nations. Our conduct therefore will be judged by the verdict of the world and by the impartial verdict of history.

"With these words, Sir, I give my entire and wholehearted support to the Bill."

75. Indian Medical (Bogus Degrees) Bill*

The Hon'ble MR. MADHUSUDAN DAS: "Sir, as I read the Bill and as far as I can understand its scope and objects, and

*Ibid, p. 320 (15 March 1916).
Bill proposed by Sir Pardey Lukis on behalf of the Government.

Digitized by srujanika@gmail.com

as far as these can be found in the terms of the Bill, I do not think that it is necessary to have this amendment. If a person sits at the feet of a professor and studies a certain science, say chemistry, and is very proficient in that science, why should a professor be prevented from granting him a certificate saying that he has attained a certain degree of proficiency? There is nothing in the Bill which can prevent or which is meant to prevent a professor from giving such a certificate. Supposing, for instance, a certain person recommends a certain medicine to me, it may be a grandmother's prescription, I use the medicine, I get cured of the ailment at the time, and I put down in a certificate that this man gave me a prescription that has done me an immense amount of good, in fact removed the ailment; there is nothing in the Bill, as I understand it, that prevents me from doing that. The Bill says:

> 'No person ..... shall confer, grant, or issue ..... any certificate or other document *stating or implying that the holder*, grantee or recipient *is qualified to practise western medical science.*'

That is very different from acquiring proficiency in one or two branches of the science that constitutes medical science. I do not think that anybody ever intended that the object of the Bill was to prevent persons from giving certificates of that nature. Now, for instance, there are patent medicines sold, and these patent medicines are advertised; the advertisers enclose a number of certificates; it is certainly not the intention of this Act the givers of these certificates or the purchasers of the patent medicines should come within the purview of the Act and be prosecuted; it only limits the number of persons or the associations that should be authorized to state in a certain manner, whether the manner be a licence, a degree or a certificate which implies or states that the man is not only qualified to treat a certain disease, but that he is qualified to practise western medical science. Consequently, by moving this amendment my Hon'ble Friend Mr Achariar has shown himself a little too chary, which was not necessary, for the Bill does not prevent any person from giving a certificate unless the certificate says in so many terms that the person is authorized to practice western medical science. That is a very different

Digitized by srujanika@gmail.com

thing from having proficiency in a particular branch of one of the sciences that constitute medical science. There is danger apprehended where there is none and I submit therefore, Sir, that the amendment is unnecessary."

The Hon'ble MR. MADHUSUDAN DAS (p. 329): "Sir, I beg to support the amendment of Mr. Banerjea, and my grounds are these. Both the public and the Government feel the need of having more doctors than the country now has. It is also agreed that the country is in need of a certain class of medical advisers who have acquired a qualification, which will make them or rather place them within the reach of the poorer classes of people; and, secondly, the qualification of these men would be of a lower standard than the qualification of men who are turned out in medical colleges. So far both the public and the Government agree that there is a necessity for more doctors in the country. When this was the state of things, certain persons undertook to open colleges or schools where they trained up certain doctors, and these men have been doing their work. Then it was found that they were not the right type of men whom the country required, and consequently by accepting the Resolution of the Hon'ble Mr. Banerjea, Government actually said in so many terms that the country is in need of doctors, but not of that type which these institutions produce. There is only the difference between the public and the Government opinion as regards the qualifications of these doctors. Government does not maintain, nor can they maintain, that these doctors who were turned out from these colleges were doing positive injury to society, or that they were a nuisance. That that cannot be the position of Government is clear from the fact that it is provided at the end of clause 6 that these men, who have existed to this day, will continue to exercise their functions as medical officers to the public after this Act comes into force. So the position of Government is this, that Government does not say that these are men who are obnoxious members of society, or who have done any positive injury to society. Then the question resolves itself into this: 'Are these people who have hitherto been necessary for medical help in this country, who are allowed after the Act to continue to render medical help to the country, do they become really a positive source of injury to the country that they should be

Digitized by srujanika@gmail.com

at once stopped? What is the result of this stopping at once? The result will be that we will not have the number of doctors which the country needs. The Hon'ble Mr. Banerjea said that the acceptance of his amendment will have the support of Bengal, but I say what is more, it has the support of reason, it has the support of equity. But then there is one thing. The proviso to clause No. 6 of the Bill says: Provided that nothing in this section shall apply to the use by any person of any title, description or addition which, prior to the commencement of this Act, he used in virtue of any degree, diploma, licence or certificate conferred upon, or granted or issued to him'. Now by this proviso those men who were holders of certificates before the passing of the Act will have the privilege of practising medicine. The Hon'ble Mr. Banerjea says — 'Extend the period'. Now, suppose the period is extended; it will require consequential amendment; because what will be the result of accepting the amendment? Without a consequential amendment, the result will be that these men who, after the passing of the Act, receive certificates will not be authorized to practise medicine, because the proviso to that clause says that only those persons who hold a certificate of a date prior to the passing of the Act will enjoy the privilege of practising medicine, whereas to those men who would receive certificates under the extended period covered by the amendment of the Hon'ble Mr. Banerjea, that proviso will not apply. So the result will be that, even if we accept the amendment, without having a consequential amendment, the result will be that certificates will be not worth as much as the pieces of paper on which they are written. While I certainly support the Hon'ble Mr. Banerjea in his amendment. I say that the matter has not been considered sufficiently. Is Government prepared to allow these men turned out by these institutions to continue as practitioners after this Act is passed? Considering that it is only justice that those who are actually students at the present day, and considering that the need of the country is that we require more medical men, I hope the Hon'ble Sir Pardey Lukis, on behalf of Government, will see his way to accept the amendment with the consequential amendment. As regards the time, two or three years, I am not in a position to say which will suit the condition of the country. That can be decided best by Sir Pardey Lukis."

Digitized by srujanika@gmail.com

76. Resolution Regarding Amelioration of the Depressed Classes*

The Hon'ble MR. MADHUSUDAN DAS: "Sir, the turn which the discussion on this Resolution has taken reminds me of the beginning and the heat of a football match. When two teams about to be engaged in a football match meet one another, each wishes that the other should come out successful; but when the kicking of the ball commences, in the heat of the sport, all that benevolence disappears, and the whole thing assumes an altogether different aspect. The object which moved the Hon'ble Mr. Dadabhoy to put forward his Resolution has the full sympathy and support of all the Hindu Members. But in his attempt to kick the ball of responsibility to the other side, he raised a heat in the sport which has brought out undesirable discussion. But the discussion and the remarks which have been made have prominently brought into view these facts, that the leaders of the Hindu community are as anxious as anybody else to advance the interests of these Depressed, I should rather say, Oppressed Classes. But then to quote the language of the Hon'ble speaker who preceded me (Mr. Malaviya), customs and traditions die hard. And the Hon'ble Mr. Banerjea in his speech pointed out that when it is a contest between a desire to improve and between old customs and traditions — customs based in most cases on religion — then we must look forward to the work of evolution; a revolution should be avoided. Now, then, what is the position of the Depressed Classes as we find at this moment of the discussion of this question in this Council? People are advancing to approach the Depressed Classes and give them the right hand of uplift. But that must be the work of evolution, and evolution is slow. It may be steady, but it is slow, very slow. Who can say how many millions of ages it took to evolve man out of his ancestor, the monkey, according to

*Ibid, pp. 379-81 (16 March 1916).
The mover was Mr. Dadabhoy, who on 16 March 1916 had moved:
"That this Council recommends to the Governor General in Council that measures be devised with the help, if necessary, of a small representative Committee of officials and non-officials for an amelioration in the moral, material and educational condition of what are known as the Depressed Classes, and that as a preliminary step, the Local Governments and Administrations be invited to formulate schemes with due regard to local conditions."

Digitized by srujanika@gmail.com

Darwin? Evolution is very slow, and traditions and customs die hard, but there stands the man of the Depressed Class. What is his position? He is away from Hindu society in the midst of a desert. Why is he there? Because at some time or other he was cast away as the sweepings of society; and he does not receive the same treatment which even sweepings in thriving cities do, because the sweepings are looked after so that they may not ferment and breed germs of disease. Here these people live on the outskirts of a village; they are deprived of every opportunity of seeing the example of a good moral healthy life; they are deprived of what is a very powerful deterrent in the human nature, and that is the approval of respectable society. I believe, Sir, that the censure of society is a more powerful deterrent than the sentence of a judge.

"Sir, the man who confesses his guilt to the policeman of having committed theft will conceal it from his neighbour; the soldier who will walk into the mouth of the roaring cannon will shrink before the little finger of scorn of society. Society furnishes a very powerful motive for a man to be worthy of its approbation and to earn its good opinion. What is the position of the Depressed Classes? What wonder if they turn to be criminal? It is all very good, Sir, to speak of the Criminal Tribes, but I am afraid very few of us realize the meaning of these two little words. A few men in a village commit an offence to which perhaps they are driven by hunger, and the residents of the village are all put down as belonging to the tribe of criminals. Before a child is born with the impress of God's innocence on his face, while he is actually drawing his mother's blood in his mother's womb, the brand of the criminal is put upon him. That is the meaning as I understand of criminal tribes, and that is what we have at the present day under the British Government, though the brightest jewel on the Crown of England was earned by abolishing slavery in the world. It is not my duty here to say what the Government has done or what the Government should have done. The question is, if those responsible for the administration of the country feel that they have done all that they could do or should have done to stretch the right hand of help to uplift these men from their pit of degradation; if they are satisfied, I have nothing to say. Reference has been made in the course

Digitized by srujanika@gmail.com

of the speeches delivered to the missionaries' benevolent efforts in this direction. I may say that on account of the complexity of the Hindu social system the missionaries perhaps in some cases have added another Depressed Class. They acted from the best of motives, from the most benevolent of motives, in fact I should say from the highest of motives, but on account of their ignorance of the social conditions and their inability to understand the complex rules of society, they have added another Depressed Class, and I belong to the Depressed Class of the Indian Christian community. I was born a high caste Hindu, but owing to my conversion I belong to that additional Depressed Class. The doors of this Chamber are hermetically sealed against that Depressed Class. If any Resolution is sent to this Council on the subject it is considered controversial, perhaps the very existence of that class is considered problematic; and that in a country where the Government maintains an ecclesiastical establishment and where the King who rules over us proudly bears the title of the Defender of the Faith. But let us turn to the situation where the Government can be of some help; many of these Depressed Classes are to be found in the jails; a man goes to jail and is taught an industry, he learns an industry and we often find that on the very day he regains his freedom he commits an offence again. To my mind that suggests a most interesting psychological problem. Why does he do this? Outside the jail he has those whom he loves and who are near and dear to him. As I said, after leaving jail he loses no time in losing his freedom again; why is that? I think, Sir, because the rules under which he works do not present to his mind any reward; he does not associate labour with the reward of labour; he considers the grub he gets is due to his imprisoned conditions. Can Government do nothing to improve this state of things? Cannot the jail rules be relaxed in such a way that the man would associate his right to earn an honest livelihood with his labour, and thus have an inducement to engage in the industry which he has learned in the jail? I suggest this because these jail birds are the people who are entirely under the control of Government. I do not like to go further because I know Government rules are cast-iron, but it is certainly in the power of Government to recast them in order to suit the present circumstances. I think we are agreed that this class really

Digitized by srujanika@gmail.com

deserves our earnest attention, and I hope the Government, as well as those outside the walls of this Chamber, men of position, men of influence, will all combine (instead of kicking the football of responsibility among ourselves), that they will . . . ".

The Hon'ble MR. MADHUSUDAN DAS (p. 381): " I will die before that minute expires ! I hope all will join together and stretch forth their hands of sympathy and help with a sincere desire to uplift those classes in such a way that the class will feel that the hands are held out to uplift them and not to strike them."

77. Resolution Regarding the Growth and Development of Industries in India*

The Hon'ble MR. MADHUSUDAN DAS: " Sir, this Resolution has, I believe, been moved at what I consider a psychological moment. The war has opened the eyes both of England and of India, to the fact (more so perhaps the eyes of the Indian Government than of the Indians generally) that foreign goods find their way in immense quantities to India. By foreign goods I mean especially German and Austrian goods. Only yesterday, a sympathetic Viceroy removed the fetters of indentured labour so that our hands might be free; and I have no doubt that in this very Council where the shackles of indentured labour were struck, after a short time on the same anvil the Manu mission will be forged. I believe in my heart of hearts that the two countries, England and India, have been brought together by a benevolent dispensation of Providence. The two countries have not been brought together so that one of the countries only should be benefited by the contact to the prejudice of the interests of the other country. At a psychological moment like this, if we realize the importance, the far-reaching significance, of this Resolution and imagine to ourselves that outside this Chamber there are millions and millions of people, of whom it has been said, and sympathetically said, and very often said, that they do not get a full meal

*Ibid, pp. 454-55 (21 March 1916).
Sir Ibrahim Rahimtoola moved on 21 March 1916:
That this Council recommends to the Governor General in Council to be pleased to appoint a Committee of officials and non-officials to consider and report what measures should be adopted for the growth and development of industries in India.

Digitized by srujanika@gmail.com

twice a day, that their hands are paralysed and fettered, that they are the children and grand-children of those very men who were the architects of all the beautiful edifices that we see in India, when we realize these facts and also that in this Council Chamber we have non-official members of India representing the interests of millions, and also official members most of whom are Englishmen representing the traditions, the history, and the glorious past of England, then I feel, Sir, that this is a meeting the real significance and far-reaching consequences of which are very great. It is a pity that we do not like to see one another's weaknesses. I suppose, Sir, before the invention of mirrors, before mirrors were introduced into the world, every woman thought she was the prettiest woman in the world, and every man thought that he was the most handsome man in the world. Mirrors soon showed them their real features. Consequently, on occasions like these, psychological mirrors are very much needed. Crimination and recrimination will not bring about that co-operation between Government and the people to which Mr. Low has referred in his speech. Here is a fact that we have discovered, that there is a common enemy; we are all determined to crush him; both countries are shedding their life-blood through thousands of their sons. The question is, cannot anything be done by Government, with the people to co-operate with Government, to shut out goods that India had got from Germany before these days? I think I understood this Resolution to mean that questions of this nature should be referred to a committee, but I suppose we are drifting into matters which may perhaps embarrass Government and perhaps embarrass the committee, should the committee be empowered to deal with such questions. The power of the non-official member is confined to this, that he can recommend certain Resolutions to the Governor General in Council.

"Sir, is it practicable by a Resolution in a Council like this to recommend to the Governor General that India should have autonomy in its fiscal policy? Can a reference like this be made at the instance of India alone? Reference to a question like this might disprove that there was a point of contact where, in an emergency like this, there might be co-operation between the people and the Government which would bring about beneficial results. The remarks of the Hon'ble Rai Sita

Digitized by srujanika@gmail.com

Nath Bahadur show that the Government had an exhibition in Calcutta to show the industrial products of Germany and Austria which found their way to India. Austria and Germany have been sucking the blood of India, like the American but which, while it sucks human blood, actually fans its victim with its wings. It has been discovered that they are blood suckers. The question is can Government, in the interests both of India and England, do something to supply these things — I say England, because as a matter of fact some of the things which Germany and Austria sent to India were not manufactured in England, and England had in many cases to depend on the manufactured products of Germany. Consequently, we have common interest and a common enemy to kill. So let there be no indulgence in crimination and recrimination with reference to the pact; let us not go back to the past, and inquire whether anything has been done by Government in the past or not, whether the people have done their quota or not; that is not the question, but here is the situation and the question really before the Council is, what can be done to get the greatest benefit out of the present situation. As regards the suggestion as to what should be done by this Committee (my friend Mr. Banerjea knows even the names of the Committee, I am not such a prophet)."

The Hon'ble MR. MADHUSUDAN DAS: "Of course, Sir, we submit our raw materials to other countries and let us hope that our raw material, that is the crude ideas that we put before the Council like raw materials, will be received by the committee and something good turned out by the machinery of their intellect which will be acceptable to the Government and the people."

78. Resolution Regarding Placing the Ancient and Indigenous Systems of Medicine on a Scientific Basis*

The Hon'ble MR. MADHUSUDAN DAS: "Sir, during the discussion that has followed the Resolution and also when the

*Ibid, pp. 344-45 (15 March 1916).
Khan Bahadur Mir Asad Ali Khan on 15 March 1916 moved the following resolution:
That this Council recommends to the Governor General in Council

Digitized by srujanika@gmail.com

Hon'ble Mover was putting his Resolution before this Council, I frequently heard the use of the expressions 'Western' and 'Eastern' systems of medicine, and it was also said that they differed. There can be no two systems of medicine; medicine must have one scientific basis and one object in view. The object in view must be the cure of human diseases, and different systems followed in different countries may differ as regards the medicine they use, the drugs they use, or the instruments they use — such instruments differing in one country from those in another according to the advancement in other sciences made in each country. What must have been the origin of all medical science? If we go back to the primitive state of man, he must have gone about in a state of barbarism; disease must have overtaken him; he must have picked out some drug, used it and got cured. That was the first step of medical science, and then, as society advanced, the information collected by a number of individuals was tabulated. It was all in its origin empirical in character. Afterwards, the information has been classified, and has assumed now the dignified name of science. It is but natural that in the East — in India — man must have resorted to the drugs which are naturally produced in India, and it is equally natural that in the West man must have used drugs obtainable in the West. The West advanced and with the aid of chemistry they prepared different tinctures, and, whereas the *kabiraj* now prescribes a heap of weeds, Burroughs & Wellcome have made compressed tabloids of these weeds. It is a question of mere dimensions. All that this Resolution asks is whether there is not sufficient material in India to form the basis of an investigation, and is it not likely that such investigation would bring to light the accumulated result of the experience of thousands of years? Science, Sir, is nothing but the classification of the result of human experience. What is science after all? Science is nothing but a survey of nature. Man looks round him and sees different objects, studies the nature of these objects, the virtues of the plants, and then he deduces his conclusions, and these conclusions form the basis of science, the result of scientific research. The Honble Mr. Banerjea said 'if it is possible to build a science on it'. I do not understand

---

that the Government of India in consultation with the Local Governments should investigate the possibility of placing the ancient and indigenous systems of Medicine on a scientific basis and increasing their usefulness.

Digitized by srujanika@gmail.com

why he should have gone so far as to doubt the possibility of it."

The Hon'ble MR. MADHUSUDAN DAS: "I submit that here we have the accumulated result of the experience of ages, and that result has not died away. The very fact that, since the incoming of the British here the Western system of treatment has prevailed to a large extent and has received much patronage from the rich and the influential, but, notwithstanding all these disadvantages against it, the fact that vitality it draws from survived, shows that it has a vitality of its own, and that vitality it draws from the very nature of the soil and the environments of the country. Consequently, it is not at all desirable that such a treasure, a treasure which in fact is the accumulated result of such long experience, should be allowed to die out. In my own time I have seen, Sir, there was a time about 45 years or half a century ago, when the European doctor condemned *dahi* (sour milk). Now, I suppose, that *dahi* is prescribed by every doctor. Men who are lovers of science pick up anything that really contributes to the health of mankind; it does not matter whether it is from the East or West. Disease is the same whether it is in the Eastern body or Western body. A healthy Western body is just the same as a healthy Eastern body. Consequently, Sir, I think that this is a thing which should not die, while we are spending lakhs and lakhs to preserve a monument like the Taj Mahal, or anything of that kind which was meant to commemorate the life of one person. We should not be justified in allowing to die a system which has preserved in the past the lives of millions and millions, and is now doing the same work on the same scale. Should we be justified in allowing this to die? And to die of what? Financial starvation — to die from lack of sympathy from Government.

"With these remarks, I heartily support the Resolution."

79. Resolution Regarding Vernacular Medical Training*

The Hon'ble MR. MADHUSUDAN DAS: "Sir, I did not expect that there would be any opposition to a Resolution of this

*Ibid, p. 295 (9 March 1916).

Digitized by srujanika@gmail.com

kind. This is a Resolution which aims at ameliorating the condition of suffering humanity of the poorer class. Objection has been made on the ground that these men would not have sufficient scientific education, and by way of illustration reference was made to certain organs of the human body, and it was said that vernacular students would not be familiar with the English names for these things. Does the quack who administers medicine which he has learnt from his grandmother understand what is the meaning of the word 'kidney'? does he know the location of the kidney in the human body? Perhaps he would look for it in the head. These are the people who are now entrusted with the precious lives of millions who constitute the backbone of the nation. The Hon'ble Sir Pardey Lukis, with his experience of the country and with his sympathetic attitude towards Indians, has supported this Resolution. The poor people under this arrangement would have doctors whose services would be available to them within their means. The object of this Resolution is not to increase mortality in the villages, but to improve public health, and it is because I believe in that object, that I support this Resolution.

"There is one point, however, Sir, that I do not understand. It may be that sitting here as I do at a distance I could not follow the speeches. In the matter of speeches, distance does not lend enchantment as the poet says. The Hon'ble Mover said — and I understood the Hon'ble Mr. Banerjea said — that so far as Bengal was concerned, books were available; but there are other parts of India where books in the vernacular are not available."

The Hon'ble MR. MADHUSUDAN DAS: "I said 'other parts'?"

The Hon'ble MR. MADHUSUDAN DAS: "'Other parts' does not mean the part you know."

The Hon'ble MR. MADHUSUDAN DAS: "Well in that case, I suppose when the Resolution is accepted, I hope it is the intention of Government that every effort shall be made to introduce books — to invite men to write books in the vernacular. The Government have to do something in that direction if this Resolution is to have any practical effect. One thing I should like to say, and that is, that it is not impossible to teach in the vernacular, because I have come across lady

Digitized by srujanika@gmail.com

students in the Cuttack Middle School — which teaches up to the standard of Sub-Assistant Surgeon — who do not know a word of English, but who have passed successfully and are doing useful work. Of course we have to import into the vernacular certain English terms. With these remarks, I beg to give my most hearty support to the Resolution."

80. Indian Tariff (Amendment) Bill*

The Hon'ble MR. MADHUSUDAN DAS: "The Tariff Bill is intimately associated with the Budget which was presented to this Council the other day. It no doubt shows a change in the fiscal policy of Government. The Hon'ble Members who have spoken and preceded me have referred to the excise duty on cotton and the import duty on piece-goods. When the Hon'ble Finance Member introduced the Budget, he delivered a message to this Council from His Majesty's Government, and that message was that a controversial question like this should be avoided at this time. It was a message of peace, and at the same time this message of peace was accompanied by an assurance that when the time comes there will be a re-adjustment of the relations between India and England, a re-adjustment when India will have her proper status in the British Empire determined and defined. With that assurance, Sir, I feel it my duty to avoid making any remarks, either with regard to the provisions in the Budget, or the Tariff Bill which may be misunderstood in other parts of the British Empire. This is not the time to say anything which may be construed as proceeding from a spirit of retaliation and retribution. His Majesty's Government promise and give an assurance that the day of reckoning will come when peace returns to the Empire. It is not the time to talk of retaliation or retribution when the house is on fire; that is not the time to discuss as to who contributed most towards the construction of the house, and what amount of labour should be undertaken by this person and that person, all of whom are inmates of the house. It is our duty to do all that we can do to show that we are loyal subjects of the Empire, that we are interested in upholding the dignity, the prestige and the honour of the Empire and of our King-Emperor.

*Ibid, p. 214 (7 March 1916).

Digitized by srujanika@gmail.com

"The Hon'ble Finance Member was pleased, in the concluding paragraph of his budget speech, to refer to some words in a Resolution which was passed unanimously in this Council. Though I was originally responsible for those words, those words represent the feeling of the whole country today as they did when I moved that Resolution.

"Sir, our duty as Indians, as to what we have been able to do, is not to be discussed now. All that we can say is, that the Hon'ble Finance Member speaks of the salt tax as a reserve to be drawn upon in times of need and necessity. I should go further, and say that the life-blood of the whole nation is a reserve upon which the King-Emperor has a right to draw when the interests of the Empire are in peril. And what can the poor man in India, who has no control over the Military Department and who does not control the war at the present day raging over the whole world do? Next to giving his life-blood in the battlefield, what can he do better than gladly accept a taxation on one of the necessary articles of daily life?

"I am glad that the salt tax has been introduced. I do not say that the salt tax is ever a desirable tax; I do not for a moment maintain that there is any justification for the salt tax. On the contrary, the salt tax in India has always been considered as a blot on the fiscal policy of the Government of India. But the salt tax has one redeeming feature viewed from the war standpoint; it has a feature which certainly is not to be found in any other tax. The salt tax will affect every Indian, so that by accepting the tax the poorest Indian, the youngest child, the oldest man contributes to the exchequer of India to make up the deficit that has been created by the emergencies of the war, and we have the satisfaction of saying — India will have the satisfaction of proclaiming — that she is not wanting in her duty to her King-Emperor. Once more I refer to the words of the Hon'ble Member that the salt tax is a reserve. Yes, let this be considered as a precedent, let the present occasion be a precedent for the future, that only when the interests of the Empire are in peril let this reserve be drawn upon, but not for other purposes. Salt is not a luxury. There is a craving for it in human nature, I should say in nature. Even wild animals lick saline dust. It is not

Digitized by srujanika@gmail.com

like other luxuries, for instance tobacco or wine. There is no danger of a man indulging to excess in salt, or getting drunk; it does not lead to any vicious habits; a Maharaja with his huge income does not eat one maund of salt and the poor beggar two pice worth of salt. The enormity of the taxation lies in this fact, that nature has implanted a craving for salt in man. In India, where saline earth is to be found, the Indian is tempted by the very soil of the country where he was born. The country which he worships as his motherland tempts him. And what is the result? Being a poor man unable to buy salt, if he takes a little saline dust, he is sent to prison for three months or six months, and the man who sends him to prison gets a reward; whereas if a cow were impelled by hunger to trespass on a farm the cow is only taken into the pound and not sent to jail. Here is the enormity of the tax. I do sincerely hope that, when peace returns, this blot on the fiscal policy of the British Government of India will be removed.

"For a small man like me to compliment the Finance Member on the carefulness with which he has prepared the Budget would perhaps be impertinent, but I do feel it all the same because in amending the Tariff Act there was danger of putting too much taxation in the shape of export duty. If that were so after the war people might have said the contributions that India made towards the war fund came from foreigners who paid the export duty. There has been a very reasonable, cautious and careful adjustment which at least secures to India the judgment of the world that, poor country as she is, poor as Indians are, they have not been lacking in their duty to support the honour and prestige and dignity of the Empire. We have done all that we could do. We have proved in the battlefields of Europe that the blood of a British subject, whether he comes from Canada or from India, has the same colour. We have proved that the heart which responds to the tune of the National Anthem is the same whether it is in the breast of an Indian or an Englishman. Let us wait for the day when peace is restored to the Empire, when the day of re-adjustment comes, and let it not be said then, let not any opportunity be given to any man to say then that in the days of trouble India was weighed in the balance and found wanting.

"With these remarks, I support the Bill."

Digitized by srujanika@gmail.com

81. Questions and Answers

Financial Statement (9 March 1916)

The Hon'ble MR. MADHUSUDAN DAS asked:

11. " (a) What sum of money (if any) was lent to the several Presidency Banks in India from the Paper Currency Reserve during the calendar year (1915) ?

(b) " Did the Presidency Banks re-advance to other Banks the amount thus lent to them ? If so, will the Government be pleased to state the terms of such re-advance as regards the rate of interest and the purpose for which this money was to be used ?

(c) " Were any firms or individuals financed out of this money with a view to help industries ? If so, will Government be pleased to state the names of such firms or individuals ? "

Digitized by srujanika@gmail.com

SECTION FOUR

[Madhusudan Das became the Minister of Local Self-Government in the Province of Bihar and Orissa on 6 January 1921 and held the appointment till 9 March 1923. His speeches delivered in the Legislature during this period have been collected from the Proceedings of the Bihar and Orissa Legislative Council.]

82. Introduction of the Budget, Head — Medical and Public Health*

The Hon'ble MR. MADHUSUDAN DAS: Sir, before I introduce the budget under the heads XXII and 32 — Medical and XXIII and 33 — Public Health, I beg to say a few words by way of personal explanation. The Hon'ble Minister on my left has not taken credit for the work he did for me till I was here on the 19th January. Within four days of my arrival here the separation of these two departments, transferred and reserved, was made. The Council must have noticed from the speeches delivered by the Hon'ble Mr. LeMesurier that this division was made no doubt in the budget that is now before the Council, and was no doubt prepared with the consent of the Ministers. The Council must have noticed also that this separation of the two departments is such that the establishment that is doing the work of one department has been put down under the expenditure of another department. The fact is that the transferred department is a new-born babe and the Ministers must take a long time to understand what it is and how it is to be dealt with. It will be for the Council to dictate to their Ministers as their servants whether there would be any change in the principles of the system, and before all that is known to the Ministers, who are merely the servants of the Council, the Council should not expect much from them. His Excellency in his speech delivered here the other day said that the people should not expect much from the Ministers at once. That was the pleading of a King's Counsel, who was also a Governor, on behalf of the Ministers of the

*Proceedings of the Legislative Council of Bihar and Orissa, 1921, pp. 33-36 (date 15 February 1921).

Digitized by srujanika@gmail.com

Council. I cannot, therefore, add to the force of that pleading by any remark of my own.

I now introduce the budget heads XXII and 32 — Medical, revenue and expenditure.

On the receipt side of the budget, a very small increase of 1 only is anticipated over the sanctioned budget for 1920-21.

On the expenditure side the total budget is 16,52, against last year's sanctioned budget of 14,38, and the Revised of 16,16. This total provision is distributed under 5 minor heads: (a) Medical Establishment, (b) Hospitals and Dispensaries, (c) Grants for Medical Purposes, (d) Medical Schools and Colleges, and (e) Lunatic Asylum. The increase in the Revised as well as in the budget for the next year over the sanctioned estimate is due partly to the revision of the pay of the various services in the Medical Department and partly to adjustment under "Medical" of grants made by the late Lieutenant-Governor and the Commissioners of Divisions out of the amounts placed at their disposal. The increased cost of the European Lunatic Asylum which also accounted for a portion of the excess is almost entirely to be recovered from the Government of India and other local governments for which this Government is working as agent.

The provision under (a) Medical Establishment is 7,08, against 5,16, in the sanctioned estimate and 5,65, in the Revised. The budget includes provision for the Inspector-General of Civil Hospitals and his office establishment as well as for the staff of Indian Medical Service and other officers employed in the medical administration of the districts. The net excess between the budget and the Revised after deducting 13, shown here in the Revised as recovery from local bodies, is 1,90; this is due to:

I. Excess under "Superintendence" chiefly under salaries and contingencies +4

II. Provision for leave allowance of Civil Surgeons, which has hitherto been adjusted in the "Home accounts" ... +27

III. Provision for pay of Indian Medical Service Officers expected back from leave or active service during the year ... +37

Digitized by srujanika@gmail.com

IV. Provision for increased pay of Provincial Medical Service	+59
V. Provision for revision of pay of Indian Medical Service Officers	+18
VI. Increase under the head "Reserve Medical Officers and subordinates" (Evidently the cadre was not worked up to this year in reserve officers probably because Indian Medical Service Officers were constantly expected to return) ...	+57
VII. Savings under Salaries and District Medical Establishment	+12
	+1,90

The provisions under (b) Hospitals and Dispensaries is 7,36, against 5,77, in the sanctioned estimate and 6,42 in the Revised. The excess of 94, is only apparent because recoveries from local bodies of 1,01, towards the cost of officers lent to them has been taken in reduction of expenditure under this head in the Revised while in the budget it has been shown as a reduction under the major head total. The estimate under this minor head includes provision for the salaries of Assistant and Sub-Assistant Surgeons, compounders, etc., employed in mufassal hospitals and dispensaries, lump provision of 6, for appointments of maternity supervisors and midwives in Patna City, 3,00, for construction of new dispensaries in rural areas of the Province, 55, for grants to leper asylums and 1,17, for special grants to dispensaries for equipment and buildings.

The scheme for maternity supervision is to experiment in educating the indigenous *dais* and public opinion in Patna and to check the large infant mortality. It is proposed to start the experiment in the Patna City Municipality in the first instance. The main cost is the appointment of a maternity supervisor on Rs. 150 a month and 4 resident midwives at Rs. 50 a month with certain allowances.

The provision of 3,00, for new dispensaries was made in the budget for 1920-21 for the first time in order to give assistance to local bodies in building new dispensaries in rural areas. From

Digitized by srujanika@gmail.com

the questions already asked by numerous members and the resolution of which notice has been given it is clear that this provision needs no defence. The provision of 25, for equipment of the Temple Medical School has been repeated and calls for no special remarks.

A special provision of 75, has been made for the establishment of a Radium Institute at Ranchi. It is the first institution of its kind and its establishment will remove a long-felt want in India. The project, of which the initial cost is about 2,30, and recurring expenditure about 30, a year, has been sanctioned by the Secretary of State. The Government of India have made a grant of two lakhs in furtherance of the scheme. The radium treatment gives relief to a variety of diseases mostly beyond the reach of surgery.

The provision under (c) Grants for Medical Purposes remains the same. This includes only the grants made to the Council of Medical Registration and the Medical Examination Board of the Province.

The provision under (d) Medical School is 1,06, against 1,02, in the revised and 1,01, in the sanctioned estimate. The provision is for normal expenditure.

The provision under (e) Lunatic Asylums is 3,27, against 3,30, in the revised and 2,06, in the sanctioned estimate. The excess in the Revised is due to the increased cost of the European Lunatic Asylum at Ranchi, in consequence of increase of pay of the existing establishment. As will be seen the greater part of this, Rs. 2,79,000 is recoverable from other provinces and the net cost to Bihar and Orissa is estimated at only Rs. 48,000.

The total budget expenditure under this head is 16,52, against 16,16, in the Revised. The expenditure as explained by the Hon'ble Finance Member has been split up into "voted" and "non-voted", the "non-voted" items representing salaries and allowances of Indian Medical Service Officers. The other items are subject to the vote of the Legislative Council which, I trust, will be accorded.

Lastly, I would add that provision has also been made in the Public Works Department Budget for the next year for the

Digitized by srujanika@gmail.com

following works in the medical department:

1. Patna, Acquisition of land for the Temple Medical School 12,852
2. Patna, Servants' quarters for the hostel of the said school 16,000
3. Puri, Reconstruction of Puri Cholera Hospital ... 50,000
4. Patna, Quarters for the servants of the Patna General Hospital ... 15,000
5. Patna, Medico-legal mortuary at Temple Medical School ... 10,000
6. Gaya, Residence for Civil Surgeon, Gaya 15,000
7. Angul, Residence for Civil Surgeon, Angul ... 15,000

I have the honour now to present to the Council the budget under the heads XXIII and 33 — Public Health. In the Public Health budget the total provision amounts to 3,92, and this is subdivided into four heads: (a) Public Health and Vaccination Establishment, (b) Grants for Sanitary Purposes, (c) Expenses in Connection with Plague, Malaria and Epidemics and (d) Bacteriological Laboratories. The total estimated expenditure under head (a) amounts to 2,08, or over 40, more than the amount expended in 1919-20. It includes provision for the Sanitary Commissioner and the three Deputy Sanitary Commissioners and their subordinate staff, for the staff of Inspectors and Sub-Inspectors of Vaccination, and for the Vaccine Depot at Namkum which supplies vaccine for the Province. Provision has been made in this budget for the necessary increases of pay which have been or will shortly be sanctioned.

Head (b) grants for sanitary purposes does not include all the grants to local bodies as some of the grants to be made find a place in the Civil Works budget. It, however, includes some important items.

Thus 47, has been provided to meet the cost of contribution to municipalities, district boards and Lodging House Committees, on account of the pay of health officers. The Government of India have recently sanctioned a proposal submitted to them by the late Government for the formation of a Provincial Service of Health Officers consisting for the present of 20 officers whose services will be lent to local bodies on condition that they bear half the

Digitized by srujanika@gmail.com

cost of the salaries of these officers and other incidental expenses. 29, has been provided to meet the cost of the scheme which has been sanctioned and already brought into effect for medical examination of scholars and teaching of hygiene in schools. This is rendered necessary by the fact that the Patna University has made it compulsory for candidates for the Matriculation to attend a course of 10 lectures of hygiene. Five medical officers have been appointed, one for each Division, and one lady doctor, and in addition to delivering lectures on hygiene they will conduct a medical examination of students.

Another important provision under this head is 25, for an experimental sanitary survey. This term is rather misleading. The proposal is to attempt a system of intensive sanitation over a limited area, with a view to seeing whether measures of this kind will result in improving the health of the locality and reducing the mortality. The area selected is in the Gaya District, and half the cost will be borne by the Gaya District Board who have expressed their willingness to co-operate and have worked out detailed proposals in consultation with the Sanitary Commissioner. The result of the experiment may be very useful, and may show the lines on which union committees or other similar local bodies may most suitably work for improving the health of villages.

Under head (c) the main provisions are in order to meet the expenses which may or may not have to be incurred in connection with outbreaks of serious epidemic diseases which are beyond the resources of local bodies to cope with. This head also contains provision of 14, for the Publicity Campaign. A special publicity officer has recently been appointed whose main duty will be to organize the work and prepare pamphlets and lectures on various questions relating to Public Health. Government attach great importance to this campaign; unless and until the mass of the people appreciate the benefit of sanitary measures, the evil results of insanitary villages and surroundings, and the simple measures which are effective in warding off diseases, there can be no marked improvement in the public health. Finally under head (d) is included the sum required for the Bacteriological Laboratory at Patna, the work of which is of growing importance and which has considerably increased since the passing of the Food Adulteration Act.

Digitized by srujanika@gmail.com

83. Budget, Head — Civil Works*

The Hon'ble MR. MADHUSUDAN DAS: Sir, I have the honour to present to the Council the budget under the head 41-A Civil Works — In charge of Civil Officer. This budget represents principally grants made by Government to local bodies to supplement their resources and to enable them to meet the cost of certain projects which they would be unable to meet without this assistance. It contains the following important items:

(1) 4,30, — Bridges, Ferries and Roads : Of this 2,00, will be distributed as grants in aid of bridging and other projects for which applications will be invited from district boards during the year. The balance represents grants already promised by Government to district boards for work already taken in hand. Thus 1,00, each will be given to the District Boards of Manbhum and Gaya for the Damodar and Phalgu bridges respectively, and 10, to the Purnea District Board for a bridge over the Ranjan river and a similar sum to the Monghyr District Board for a bridge over the Man river. These two sums represent the balances of grants, half of which have been paid in the current year.

(2) 2,45, — Water supply : This provides 1,00, for the Puri Water Works scheme with which it is hoped to make a start next year, though the problem of finding funds for this project costing in all nearly 18 lakhs has to be solved. 1,00, for grants in aid to municipalities for conservancy and water supply schemes which will be selected by the Sanitary Board in order of urgency and importance and recommended to the Ministry of Local Self-Government as deserving of assistance, 45, is for water supply in rural areas. This amount is intended for distribution to district boards and has been given for many years on the expenditure incurred in the previous year. The grant is subject to a maximum of Rs. 3,000 in each case. In this as in other similar cases, the recommendations by the Sanitary Board will be considered before the distribution is made.

(3) 2,29,— Sewerage and Drainage : This represents 1,54, for Patna City Drainage to enable another portion of this scheme

*Ibid, pp. 39-41.

Digitized by srujanika@gmail.com

to be taken up and 75, for the Muzaffarpur drainage. Government are committed to the grant last mentioned.

(4) 1,20 — Special grants at the disposal of Commissioners of Divisions : This grant enables Commissioners to meet the cost of minor works of public improvement which may be necessary in the course of the year and also is available for distribution by them to local bodies. A small grant of 10, is also provided for District Officers for the same purpose.

(5) 3,15,— Contribution to District Fund and District Road Funds for communications : This is the so-called "augmentation grant" and is distributed annually to district boards by Commissioners.

(6) 2,14,— Other contributions : This includes several grants which are repeated annually, e.g. 50, to the District Committee of the Santal Parganas for the development of communications in that district. 20, for maintenance of roads in the Patna City Municipality, 15, to the Singhbhum District Board for the improvement of communications, and 13, for improvement of communications in Sambalpur. The balance will be available for other projects which may be sanctioned in the course of the year. Thus the total amount to be voted under this head comes to Rs. 16,17,400 as against 11,91,400 in the revised estimate of the current year.

I have now to introduce the heads relating to Provincial Civil Works in charge of the Public Works Department.

The revenue realized under this head is mainly received from the rents of Government buildings in the Province. The actual receipts during 1919-20 amounted to Rs. 4,29,712. The budget estimate for the current year was fixed at Rs. 4,75,000 and this figure has been repeated for the revised estimate. For 1921-22 the proposed budget figure is Rs. 5,00,000 allowing for an increase of Rs. 25,000 over the revised estimate for 1920-21, on account of rent expected from buildings that have lately been finished and from those that are under construction.

As regards expenditure, the budget estimate for the current year was passed for Rs. 78,68,000 but the revised estimate has been reduced to Rs. 65,75,000. This heavy decrease of Rs. 12,93,000 is mainly due to the curtailment of expenditure on certain

Digitized by srujanika@gmail.com

works in progress and to the postponement of a number of new works that were included in the budget. It was necessary to curtail expenditure on Public Works that were not urgently needed, in order to release money required for meeting the cost of the revision of pay of the non-gazetted services appertaining to the different Departments of Government. Funds have, however, had to be allotted by reappropriation for a few urgent works not originally included in the programme for the current year, the principal items being (i) acquisition of land for the proposed School of Mines at Dhanbad, (ii) conversion of the lower hall of the Patna College into a Chemical Laboratory for I.Sc. students and (iii) acquisition of a house within the fort of Monghyr for the residence of the Superintendent of Police.

The following are some of the important works that have been completed or are expected to be completed this year or early in 1921-22:

(a) Circuit House, Chaibasa

(b) Hostel for students of the Industrial School at Ranchi

(c) Hostel for students of the Zila School, Hazaribagh

(d) Isolation ward in the compound of the General Hospital, Bankipore and

(e) Bridge over the Ranj river on the Raipur-Sambalpur road

The budget estimate of expenditure for 1921-22 has been taken at Rs. 72,70,000 excluding Rs. 9,85,000 being the amount recoverable from the Government of Bengal and other Provinces as this represents their share of the estimated expenditure in connection with the asylums for European and Indian insanes at Ranchi. The details of the proposed grants for 1921-22 are shown in the printed Budget.

The expenditure of the department concerns both sides of Government, since the Public Works Department, as a transferred department, constructs and maintains buildings which belong to the reserved departments. Accordingly the estimate has been split up into two portions and the Council will be asked to vote a grant of Rs. 18,24,482 for the construction and maintenance of reserved buildings and Rs. 53,36,918 for transferred buildings and for the establishment of the Public Works Depart-

Digitized by srujanika@gmail.com

ment (Roads and Buildings Branch) less Rs. 1,69,140 " non-voted". The expenditure in Angul is also outside the budget votes.

Under " Establishment " provision has been made for the increased pay of the non-gazetted services of the Public Works Department and also for leave allowance of gazetted officers on leave in England which has hitherto been debited against the Imperial budget.

Before I sit down, I wish to offer my sincere thanks to the Financial Secretary Mr. Sifton, Mr. Hallett and Mr. Blaber and all other people working under them who have been very kind and have given me such assistance as was indispensably necessary for me in order to understand the budget.

84. Resolution: Medical Relief in Rural Areas*

The Hon'ble MR MADHUSUDAN Das: Sir, I rise to move the following amendment:

> That in clause (ii) for the words 'in the coming year' be substituted the words 'at as early a date as possible' and that after the words 'one dispensary' be added the words 'or other suitable means of supplying medical relief'.

Sir, I am very sorry, and I consider myself most unfortunate, that I could not follow the mover of the resolution when his speech was delivered, but I just caught a few words: the first is that the district boards are unwilling; the second is the name of Rai Bahadur Dvarika Nath, and another thing that was most emphasized was the word 'unfortunately'. If the district boards are unwilling — that is the impression which the hon'ble mover of the resolution has got in his mind — let me assure him that he will find them very willing. I shall now place before the Council certain facts which, I am sure, will convince the Council that before this resolution was moved, Government had taken an active and very sympathetic attitude in this matter and they had already made provision for these things. I shall just read a note which has been furnished by my kind friend Mr. Hallett.

The Local Government have already to a large extent anticipated the wishes of the hon'ble member. In 1919 they drew

*Ibid, pp. 78-80.

Digitized by srujanika@gmail.com

the attention of district boards to the inadequate facilities for medical treatment which existed in rural areas. The following extracts from a letter addressed to district boards through the Divisional Commissioners will show the policy which Government adopted:

"In view of the inadequate facilities for medical treatment in rural areas, the situation is not one which Government can view with satisfaction, and the necessity for more rapid progress is obvious. The expansion and development of medical relief divide itself into two main parts, the construction of hospitals and dispensaries involving capital expenditure and the provision of staff, medical appliance and other items for which more or less fixed sums must be earmarked year by year. At present local bodies have to provide for both, and progress is really limited by the expense of construction more than by any other cause. If all or most of the money now found by local bodies for medical relief would be spent on maintenance, far greater facilities could be afforded to the public. While therefore the Lieutenant-Governor in Council must insist that medical relief is a matter which is particularly the province of local bodies, he recognizes that if Government wish to quicken the pace, they must assist by providing part of the funds required for capital expenditure.

"I am accordingly to request that the local bodies in your Division may be asked to consider what addition to, and improvement in medical arrangements are required in the areas under their control; what amount they are in a position to set aside annually from their revenues for recurring expenditure on medical institutions and what new construction they could undertake with the assistance of Government and with local contributions. His Honour is prepared to contribute a proportion of the non-recurring cost involved in all such projects, having regard to the circumstances of each local body, and the state of the provincial finances at the time up to a maximum of three quarters of the total amount required and will make specific provision in the budget of the Province to meet the estimated cost of such contributions."

In accordance with this instruction district boards have drawn up programmes for the establishment of dispensaries in areas in which no facilities for medical relief exist. In the budget of

Digitized by srujanika@gmail.com

the year 1919-20 a provision of rupees three lakhs was made in order to enable Government to make grants to district boards in the manner proposed. A statement* showing the districts to which these grants have been made in the current year has been laid on the table. In the budget for the year 1921-22 a similar provision of rupees three lakhs will be proposed, and, if accepted by the Council, the sum will be distributed to the district boards to enable them to carry on their programmes. Government are quite prepared to make further grants in future years, if approved by the Council, and hope by this means to secure that the facilities for medical relief are largely increased. But they wish it to be clearly understood that the duty of providing medical relief rests primarily on district boards and that the policy indicated by the late Government will be adhered to, grants being given to those boards which are prepared to meet from their own resources part of the capital cost and the whole of the maintenance charges of new dispensaries.

In the second half of his resolution the hon'ble member asks that district boards should be urged (a) to initiate a liberal programme for the establishment of new dispensaries and (b) to arrange that in the coming year not a single police station area remains unprovided with at least one dispensary. Government fully agree that the standard of one dispensary in each police-station is one that may be suitably adopted by the wealthier district boards. The statement† which I have placed on the table showing the number of dispensaries in each district of the Province shows that in many districts of the Province there is already at least one dispensary in every thana and that few additional dispensaries are needed in order to work up to the standard of one dispensary for every police-station. But it is clearly impossible for districts such as Ranchi, Hazaribagh and Sambalpur to attain this standard for several years to come, while even the districts already well provided with hospitals would have considerable difficulty in reaching the standard within the short period of one year. A further point of importance is that it is possible to bring medical relief within the reach of a large portion of the population by cheaper methods than the establishment of dispensaries maintained and managed by dis-

*Appendix D ante at page 67.
†Appendix H infra at page 81.

Digitized by srujanika@gmail.com

trict boards. In some districts there are already Government hospitals established primarily for the benefit of their own servants which, however, also supply medicines to other persons, such as the irrigation hospitals in Shahabad, Champaran and other districts. When these dispensaries are already in existence, there is clearly no need for the district board to establish another dispensary in this vicinity. Government will consider in consultation with the district boards whether the work of these dispensaries can be further developed so as to make them more generally available for the public. There are also in some districts Mission dispensaries which already do very good work. It is possible that their work might be further developed if they receive grants-in-aid from district boards, and the boards will be asked to consider this question. Railway dispensaries, as a general rule, only serve the Railway staff or persons travelling by the railway, and it is doubtful whether they can be made available for the general public. The district boards, however, will be asked to consider whether any arrangements whereby they bear part of the cost of maintenance in return of outside patients being treated can be made with the Railway authorities. Again in many districts, especially in those not densely populated, travelling dispensaries for a cheaper method of supplying medical relief over a considerable area may be considered. The question of travelling dispensaries has been dealt with by the Inspector-General of Civil Hospitals in his last Triennial Report. He writes as follows:

"The idea of a travelling dispensary is excellent, that is, a Sub-Assistant Surgeon, keen on his duties, travelling about with sufficient equipment to meet the medical and surgical needs of the rural population, giving simple advice regarding sanitation, investigating local outbreaks of epidemic or endemic disease; staying as many days in a village as is necessary, advising those suffering from cataract or diseases needing special surgical or medical interference to go to the nearest sadar hospital, and generally helping the people from a medical point of view. He should be so useful that his visits would be welcomed by the people. Provided the duties for which they are established are properly carried out and the medical and surgical equipment with the medical subordinate is sufficient, they should be of the greatest possible use in helping to meet

Digitized by srujanika@gmail.com

the medical needs of the Province. To make a travelling dispensary a success, you must in the first place have a young and keen Sub-Assistant Surgeon. Secondly, he must be well done in the way of medical and surgical equipment, transport, etc., that is, enough for the work he will have to do, and his personal comfort must also be studied. I am ascertaining what the equipment of a travelling dispensary is in other provinces where they are extensively used, with a view to getting together what has been found to be most useful generally in the way of equipment."

Finally there is the system of subsidizing medical practitioners either by the grant of a small salary or by the free supply of medicines with a view to encouraging them to settle in villages. This system which has been adopted in Bengal has already been brought to the notice of some district boards, and Government will bring it to the notice of all boards and issue suggestions as to the most suitable arrangements to be made. Government are inclined to hold that a subsidy in the form of money should be avoided as this may in some cases attract men who do not appreciate the value of self-exertion.

In conclusion I am prepared to accept generally the resolution of the hon'ble member with the exception of the last clause. It is useless to urge district boards to try to achieve the impossible and I have for that reason put down the amendment which stands in my name. I wish it to be clearly understood that though the standard of one dispensary in each police-station may be adopted, it is not possible for this standard to be reached within a single year and that some district boards with their present resources, even with the assistance which Government contemplate giving them, cannot be expected to attain this standard for many years to come. The amendment of the resolution by the substitution of the words, "at as early a date as possible" for the words "in the coming year" and by the addition of the words "any other suitable means of supplying medical relief", makes it one which Government, and I trust the members of the Council will accept.

I had a talk with the hon'ble mover of the resolution, and I assured him of my personal sympathy, and of the sympathy of His Excellency the Governor. I am reasonable when I ask him

Digitized by srujanika@gmail.com

to accept this amendment, because the object of the amendment is to make it plain that Government cannot promise a thing which they do not think can be accomplished within a limited year. We have not got a magic lamp and we cannot raise dispensaries in a day. But every effort will be made by the Government in the Local Self-Government Ministry to do all that can be done in as short a time as it can possibly be done. I hope the hon'ble mover of the resolution will accept the amendment, and that really practically means what he wishes to do in the shape of good to the country.

85. Resolution: Medical Relief in Rural Areas*

The Hon'ble MR. MADHUSUDAN DAS: Sir, I think there has been a good deal of misapprehension as regards the powers and functions of this Council and the duties of a Minister and the powers of district boards. Under the Reforms Scheme we ought to allow the local bodies to work in the way they think best suited to the demands and wants of the localities where these local bodies exist. It was really in respect of the transfer of the powers which were to a certain extent in the hands of Government that this Reforms Scheme was introduced. Now what these speeches tend to mean is that this Council and the Ministers should have the power to overrule the district boards and dictate to them as to what the power to overrule the district boards and dictate to them as to what they should do and what they should not. For myself, Sir, whether I am a Minister here or not, I shall be the last person to take away the powers and discretion which after so much fighting and trouble has been conceded to our countrymen and has been given to these local bodies. If it is my duty here to dictate to them and say that they must carry out my orders as they have been accustomed to do when the orders came from District Magistrates, I say I should decline to be here and I should be the first person who ought to be accused of having misunderstood the very object of the Reforms. I had in my mind these difficulties; I had in my mind these delicate things when I said that there should be wanting nothing on my part to point out to these district boards their duties under the altered circumstances. They must rise to

*Ibid, pp. 104-5 (date 16 February 1921).

Digitized by srujanika@gmail.com

the occasion. They must develop in them a sense of responsibleness if they want to have responsible Government. It is not possible for me to dictate to the district boards or any other bodies. They have to take into consideration other circumstances which are perfectly unknown. I am quite prepared to take on my head the blame that has been given to the district boards and the Government generally for the hundreds and thousands of people who have been carried away by the ravages of plague. I am prepared to take all that as an inheritance of the office which I occupy now, but then at the same time I must point out that nothing which is not practicable should be expected from anybody. If there have been laches in the past — there have been these laches — I cannot vouch for the statement if there have been these laches or otherwise — certainly we cannot make up for mistakes and negligence in the past in a day or two. On the contrary it has been brought to the notice of this Council by several speakers that the district boards do not do their duty, that they prefer one thing to another, and this points out that we should find out the right type of men and put them in and entrust to them the duties which ought to belong to these local bodies. It is not for the Minister or anybody under him or on his staff to go round and find out the right type of men who ought to be entrusted with these responsible duties, nor is it in the power of the Minister or anybody to create and develop a sense of duty and to enable the people to realize the responsibility under these circumstances. It was in view of these difficulties that I said that I could not undertake to do it within a year; for they are bodies and not individuals on whom personal influence can have any effect.

86. Resolution: Contamination of Ganges Water*

The Hon'ble MR. MADHUSUDAN DAS: Sir, it seems that some of the members consider that the improvement sought for is of such dimension that the municipality with the means at its

*Ibid, pp. 113-14 (date 16 February 1921).
Ram Gopal Singh Chaudhury had moved the resolution:
"that immediate steps be taken to adopt measures to prevent the contamination of Ganges water from Digha Ghat to Marufganj which is extremely injurious to the health of the bulk of the residents of Patna who use the river water for drinking and bathing purposes."

Digitized by srujanika@gmail.com

disposal cannot cope with it. There will be found in the budget a provision of Rs. 1,54,000 for the drainage scheme. That shows the Government realizes its duty in this matter. But at the same time I should say that I have before me a statement showing the death-rate, mortality, per thousand within the last few years. What I have is from the beginning of this century. It was 75·8 in 1901, 42 in 1912 when this new Province was created, 32·8 in 1918 and 26 in 1920. These figures certainly do not point to the sanitary condition of the place having become worse and worse. The water of the river was analysed and the result of the analysis shows that except near the edge of the stream the water is not bad, and even near the edge where the current perhaps is not strong, it is not so bad and injurious as the hon'ble mover of the resolution would have us believe or would like to make out. Then there is a reference to the septic tanks. I do not know whether the hon'ble mover means to say that discharges from septic tanks contain contamination. The real cause of offence and contamination — and that is really the thing to which Mr. Morshead was referring — is the free use of the bank of the river as an open air latrine. The Council will agree with me, if I say, that being within the municipal areas it is primarily the duty of the municipality to see that such a thing does not exist within an area controlled by the local body, and I suppose if the Government were to interfere in matters like this, they would have to keep an establishment in addition to the establishment which has been retained by the municipality. Government are willing in the present state by providing funds for the drainage scheme to help the municipality, if an application for help comes from the municipal board. It is the first duty of the municipality that it should provide proper latrines, and until this is done, the enforcement of the bye-laws of the municipality which were created by it cannot be enforced. Bye-law 37 provides that no person shall ease himself by the side of any river, etc., etc., or discharge therein any sewage or any offensive matter. A fine of Rs. 10 is provided for breach of this bye-law. Bye-law No. 69 provides that when places for the performance of offices of nature have been provided by the Commissioners, no person shall satisfy his call of nature at any place outside private premises. If these laws are found defective by the Municipal Board of Patna and if they come up with a proposal for more stringent bye-laws before Government,

Digitized by srujanika@gmail.com

I am sure Government will help them to enforce them, but so long as the municipalities do not provide latrines, they cannot enforce the bye-law which says that using open places as latrines ought to be punished. The attention of the hon'ble mover of the resolution is also invited to clauses (b), (c), (d) and (e) of section 350 of the Municipal Act. I fear I have been misunderstood in my reply to the other resolution. I do not know really those hon'ble members who have made references in their subsequent speeches to my remarks.

The Hon'ble MR. MADHUSUDAN DAS: Sir, Government can certainly do what it has the power to do under statutory rules or the terms of the statute itself, and I can assure the Council that Government will be willing to do all that, but Government cannot be expected to undertake the duties which primarily belong to the municipal board itself and have been prescribed by the Municipal Act. I am referring to those particular clauses and sub-clauses of section 350 in which the functions and duties of the municipality are laid down, viz.:

(b) regulating the use of, and the prevention of nuisances in regard to, public water supply, bathing and washing places, streams, channels, tanks and wells;

(c) regulating the disposal of sewage, offensive matter, carcasses of animals and rubbish, and the management of private drains, cesspools and sewers;

(d) regulating cremations and burials and the disposal of corpses;

(e) preventing nuisances affecting the public health, safety or convenience.

These are the functions and duties of the municipality. I understand that very soon the Patna Municipality will have a non-official chairman and I hope, I am only expressing a hope, that not very long from this date I shall have an opportunity and the pleasure of congratulating the hon'ble mover of this resolution as the Vice-Chairman of the Municipality. And then I suppose these defects will be solved with Rs. 1,54,000 given by the Government for the drainage scheme, and when such able men as the Vice-Chairman occupying seats on the municipal board will take active interest in their work, I hope we shall soon see altered state of things which will remove this present ground of complaint.

Digitized by srujanika@gmail.com

The Hon'ble MR. MADHUSUDAN DAS: Sir, I may promise that I shall personally look into the matter and visit those places and talk to the municipal commissioners, if possible, in an informal manner and see what can be done, and as regards any part that is outside the municipal limits I shall certainly see them and find out if any redress can be given to the public.

87. Resolution: Retrenchments in Expenditure*

The Hon'ble MR. MADHUSUDAN DAS: I had not given any thought as to what I should say on this resolution, but I have attentively listened to the speeches which have been made and specially to the speech of the mover of this resolution. In these speeches I find materials to justify my conclusion that this resolution is premature and somewhat — I should add — defective. The right of the Council to look into the accounts — (I use the ordinary term) — nobody can doubt or dispute, much less shall I. I have been associated with the Council Chamber for nearly 28 years — as long as anybody in India perhaps. I have known the days when non-official members were not allowed to move a resolution. The only chance they had was to make a speech on the budget day and in that speech they crammed all they had to say. I have always from those days looked forward for the privileges we have now got.

The Hon'ble MR. MADHUSUDAN DAS: I should be the last person to say that this Council has no right to appoint a committee to look into the accounts, examine the budget and come to a decision which the state of things would justify. From the speeches that have been made it seems that it is admitted by some speakers including the hon'ble mover of this resolution, that there is an insistent and most justifiable demand for further expansion and increase of expenditure in certain directions. The hon'ble mover of the resolution has referred to the engineering college, the medical college, and some of the speakers have referred also to the expansion and modification of the whole educational system of the Province. There is a real demand for increasing expenditure under certain heads, and this is but natural; for, what is this Province? It was I who called this Province a baby Province in the Imperial Council. It is still

*Ibid, pp. 142-43 (date 17 February 1921).

Digitized by srujanika@gmail.com

a baby only a few years old. It has its wants to be supplied. The period of childhood is the period of development. The child requires more nursing than the adult. The child requires great care and expense in developing. The capabilities of the child must be great, and in order that the expenses or money spent on the educational development of the child may in future prove a productive investment, it is necessary that those who are in charge of the child should look to its future and should not expect that expenditure would prove a productive investment at once.

The resolution is worded in such a manner that I am constrained (I beg to be pardoned by the hon'ble mover) to call it defective when viewed in the light of the above circumstances. For have we not admitted that there is still demand for expansion, and that means increase of expenditure, but the resolution says that only retrenchments are to be made by the committee. The committee would have power only to curtail expenditure and they might say — "Do not have any medical college, do not have any engineering college, we have power to curtail, cut down, but not to expand"; and that is really why I call it defective. Furthermore this Province, baby as it is, has just had the introduction of the Reforms Scheme. The very word 'reform' has always suggested to me the idea that we should formulate new principles, build on a new foundation. There is this reform work, the carrying on of which has been entrusted to people who are your servants — your Ministers — but you have chosen men who were not in the Secretariat, who have not been running the old schemes or machinery. It is no fault of theirs if they are men who in the past stood outside and were not allowed to enter into the secrets of the Government machinery. You must give them time to do their duty, so that they may be in a position to give you the necessary information which will be of use to you and which will enable you to know where to cut down expenditure and where to add to lthe expendture. It is not fair to compare this Province with the older province of Bengal. The mover of this resolution has pointed out that the Government of India has declined to pay a certain sum of money which they had promised to pay for building up a University in this Province. The Government of India was the father of the baby Province, and this baby Province — I use the word of the mover

Digitized by srujanika@gmail.com

of the resolution — has got the right to demand means for the development of a full-fledged Province. If the Government of India declines to give the amount now, it has declined to discharge a sacred parental duty. But then, left as we are, I do not consider this Province to be altogether an orphan, and even if it were so, the resources of the country are enough to make us take our stand on firm ground and feel that the future is not far when this Province should shine forth as a most prosperous Province. The other day I was at the Garden Party at Government House. There I met a friend who wanted to see me. He had been travelling all over India, prospecting industrial developments. He saw me and I had a talk with him. He is coming out next year here. He told me that our Province is sure to be the richest Province in the near future. People do not know what wealth, what mines and what resources are hidden in the Province. This is the Province which we may call our mother Province. The mother hides in her bosom all the affection for the child — not only affection but the power to nurse the children, so that the children will be strong, vigorous children, and stronger than any Province in India. Even if we appoint a committee now, I am sure they will not be able to begin work because they will not get all the information. Again you have been informed that there will be so many committees. If all these committees are taken from this Council and if a number of them go on itinerating throughout the Province, who would be here to decide as to what the Council should do and should not do on the Report of the Committee? It is much better (I especially request the hon'ble mover of this resolution) to withdraw it for the present, and I am sure he will stand on stronger ground and be better prepared to move the resolution a little later.

88. General Discussion on Budget*

The Hon'ble MR. M. S. DAS: I do not wish to reply to the several remarks from several hon'ble members with regard to the subjects I am in charge of, but, with your permission, Sir, I should not like to lose this opportunity of correcting a mistake or misconception which seems to rule supreme in this Chamber.

*Ibid, p. 2170 (date 26 February 1921).

Digitized by srujanika@gmail.com

This Chamber has very often been called the House. It is not yet a Parliament and certainly only the Parliament can be addressed as the House. And it is owing to this radical mistake having crept into the minds of my friends that the Ministers have been expected to define their policy. The two poor men who have been put down here as Ministers are presumed to be clothed with all the powers of Ministers in the House of Commons, and therefore they are called upon to account for everything for which perhaps a Minister in the House of Commons is responsible. We seem to have lost sight of the fact that this is but a partial concession by the Parliament, and if we work well and satisfactorily on this concession a responsible Government lies before us in yonder horizon. It is all very easy to say to the Minister, the poor creature as he is here, why he did not define his policy as Ministers in the House of Commons do. The Minister here begins his life by getting a dole of money that is given by those who are in charge of the whole administration. Half of this administration is managed by persons who are not Ministers but administrators and the other half, if it is half really, is given to us. And if we analyse the relations between these two parts, what do we find. We find the Departments of Agriculture, Industry, Excise and other things in charge of my esteemed friend while I am in charge of the manpower of the nation. I must keep them healthy and I must supply able-bodied men and he must supply the brain power: we have to develop the natural resources of the country. That is our relation with regard to the administration, and yet we are asked why we did not define our policy. If my friend Rai Bahadur Dvarika Nath goes back to the days of the earliest Parliament when Simon de Montford started it, he will find that no policy was defined then. There are also certain other remarks which I think I should refer to. There seems to be a principle underlying certain remarks, but till the principle is defined in clear and unequivocal terms, in the terms of a resolution or declared policy of this Chamber, the Minister cannot accept it as such and cannot act up to it. People have said that human lives are dearer than any policy of having buildings or types of buildings that may have been laid down. Nobody sympathizes with that more than I do. Human lives must be saved, and the theory of having hospitals and dispensaries of a certain character must be brushed aside for the time, and every

Digitized by srujanika@gmail.com

pie that is available must at once go to save suffering humanity. There cannot be any question about that, but who was it that passed the resolution that there must be dispensaries over the whole country? Did I not say, Sir, that a little more time should be given in order to arrive at a definite policy? The Council were then eager to pass a resolution that we must spend money on brick and mortar. I fully share in the opinion which says that human lives must be a matter of supreme interest, supreme concern and supreme anxiety of this Chamber and of Government. And if Government fail to supply funds to save human lives, I am sure that there is humanity abroad to come in and save human lives. But you must remember that there is this difficulty, that this Public Health Department has been hitherto managed by people who have had their education in a foreign country and who have been actually trying to introduce the system as it exists in their country, and of that we have heard a very lucid account from the Inspector-General of Civil Hospitals today. The question for the nation to decide is: 'Should we accept that or should we as some of the hon'ble members said the other day, cut our coat according to our cloth? Why say coat or a particular garment? I say cut your garment according to your cloth. If you cannot afford to introduce that system, let us decide how we shall save our brothers who are dying in villages. Colonel Austen Smith has told you that in order to keep away hookworm you must have boots. I cannot imagine the state of India when we shall all put on boots. I am sure it will give good work to my boot factory, but I do not think it is possible. I do not mean any criticism on the lack of British policy, but all the result of attempts of having the principles of sanitation introduced in this country during this one century has been that there is not a single town in India where the Englishmen have not found it necessary to have a separate quarter for themselves, and therefore, we must decide how we should live, what we should do and what system we should follow to save the lives of the poor men who drive the plough and pay for the expenses of this Chamber. These are principal policies which you must define first, then your servants the Ministers, whoever may be here, would carry out the orders: but it is for you to decide these things and not for the Ministers. Of course I have already heard the principles underlying those remarks by the Hon'ble Rai Bahadur Dvarika Nath in which

Digitized by srujanika@gmail.com

he made reference to buildings. I do not wish that I should take up any more time of the Council, but let me once more tell you that whoever may be your Minister, the time has come that as representatives of the nation, you must help him. Take for instance, the subject of sanitation. The Sanitary Commissioner tells you that there is the bacillus that kills the men, while the people in the village say that Ola Bibi entered the village and since then men are dying. This cannot be. These prejudices and these false ideas must be removed. But how can it be removed and how can the Minister do it unless you co-operate with everybody in the village? There should be a regular campaign of co-operation. I should like the word co-operation written in gold on the walls of this Chamber. There should be co-operation between your constituency and yourself, co-operation between you and the Ministers. It is only co-operation which can bring to you the result desired.

89. Resolution: Election of Members of Local and District Boards*

The Hon'ble MR. MADHUSUDAN DAS: Sir, I have no hesitation in accepting this resolution, which, like some others which have been or are about to be moved in this council, anticipates the intention of Government. I am glad, however, that this resolution has been moved and that the Council have in this way been given an opportunity of expressing their approval of the policy of Government. The development of local self-government on an elective and representative basis is an essential part of the Reforms Scheme, and it would clearly be most inconsistent if this Legislative Council which is responsible for the government of the Province were elected, while district and local boards which were responsible for the administration of smaller areas continued to be nominated and appointed. If the elective system is widely extended, it is to be hoped that the electors will take an intelligent interest in the work of the local bodies and thereby come to take also an intelligent interest in the work of the Council.

*Ibid, pp. 268-69 (date 28 February 1921).
Maulavi Sayid Abbas Ali moved the resolution:
"To take early steps to introduce a liberal measure of the right of election of members to all local and District Boards in the Province."

Digitized by srujanika@gmail.com

Government, however, cannot in this as in any other matter go beyond the provisions of the law. At present local bodies are still subject to the provisions of the Acts which were passed many years ago, long before there was any suggestion of introducing representative Government into India. I may remind the Council that the Local Self-Government Act makes no provision for the direct election of members of district boards, but only provides for a system of indirect election under certain conditions. In districts in which there is no local board, the whole of the district board is composed of appointed members. When a local board has been established, it is entitled to elect such portion of the whole of the district board as the Local Government may direct, and when local boards have been established throughout the whole area of a district, not less than one half of the whole district board has to be elected by such local boards. Thus in all the districts of the Patna, Tirhut, Bhagalpur and Orissa Divisions in which the Local Self-Government Act is in force, half the members of the district board are elected by the local boards. In Chota Nagpur the local board system has not been developed, but in Manbhum and Hazaribagh some of the members of the district boards are elected by the local boards. Direct election to district boards cannot therefore be brought into effect without an amendment of the Act, but the question was recently considered by a Committee appointed by His Honour Sir Edward Gait, which consisted principally of non-officials, to advise on questions connected with local self-government, and they were unanimously of opinion that election to district boards should be direct and not through local boards. I am fully prepared to accept this recommendation. I hope to take up the question of the amendment of the Local Self-Government Act at as early a date as possible and to bring it before the Council which will thus be in a position to give effect to their wishes, and to enact such provisions as they think fit for a wide extension of the elective system.

Now for local boards direct election is possible, and this system has been in force for some years in the districts of the Patna Division, and Sir Edward Gait's government decided to extend this system to other districts of the Province. The necessary orders have already been issued for the district of Monghyr in which the period of appointment of the existing appointed local boards

Digitized by srujanika@gmail.com

expires in April next. In other districts the period of appointment of the present boards does not expire till later, and it is doubtful whether it is possible under the present Act and the rules thereunder to curtail the present period of office of the appointed local boards. This question is being examined and I hope to be able, if there is no legal objection, to arrange for election in these districts at as early a date as possible.

Finally, I may refer to the humblest unit of local self-government, the union committee. There are at present 19 of these unions in the Province, and except in the case of four committees in the Gaya District, all the members are appointed by the committee. I consider that in this case also the elective system should be introduced, where possible, and I propose to examine the condition of all the committees with a view to ascertaining whether there is any valid reason for continuing the present system of appointment. In future, if proposals for the constitutions of new committees are submitted, the elective system will be introduced in the first instance, and I have already directed that election should be held for the constitution of two new committees in Hazaribagh and Manbhum. I trust that the action which I have taken and am taking will be a proof to the Council that I am fully in sympathy with their wishes in this matter.

(The resolution was put and carried.)

90. Budget Demands: Public Health*

The Hon'ble MR. MADHUSUDAN DAS: Sir, there is a provision of Rs. 25,000 for an experimental sanitary survey. This I am told is a wrong description of the work which it is proposed to do. The Sanitary Commissioner calls it Gaya intensive rural sanitation. I am told that the Hon'ble Sir Ali Imam, when he was a member of the Executive Council of this Government, suggested the formulation of a scheme for rural sanitation. A scheme was accordingly drawn up. I have got in my hand papers giving the details of the scheme, and, if this Council wish, these may be printed and laid on the table. It was drawn up by Dr. Tiwari, the Deputy Sanitary Commissioner, while the Sanitary Commissioner was on leave and Dr. Tiwari was acting

*Ibid, pp. 448-58 (date 10 March 1921).

Digitized by srujanika@gmail.com

as Sanitary Commissioner. I shall read out portions of this document which will give you a rough outline of the scheme.

> The object of the scheme is to find out by experiment what is not practicable in the way of rural sanitation, to observe the effects in the truly rural areas of such measures as might be taken for the prevention and cure of diseases and the improvement of public health, to educate the public as to the possibility and benefit of such measures and to ascertain how far the provisions of the present Local Self-Government Act are suited for this purpose. At the head of this organization stands a Health Officer. He will be recruited from the assistant surgeon class and will have a small laboratory. He will also have under him Assistant Health Officers with compounders in different parts of the selected areas.

Then the scheme deals with other things. For the first few months the staff will be engaged in the survey of diseases and that is why it is called survey; and in finding out the special conditions and features which contribute to the spread of the disease in each locality.

Record of these will be kept regularly and in proper form. This agency will also deliver lectures. No change will be made in the mode of work or personnel of the superior staff without the previous consent of the Sanitary Commissioner. An annual report will be submitted to the Sanitary Commissioner.

Then comes the control of the epidemic diseases. Under this sub-head the hon'ble members will find the following provisions. Arrangements should be made with the Superintendents of Police to require the chaukidars of villages to report cases of cholera, plague and small-pox occurring in their respective jurisdictions. This is to be done by giving chaukidars a set of printed cards in different colours — red for cholera, yellow for plague and green for small-pox.

An estimate for an area of 414 square miles with a population of over three lakhs was made. The amount came up to Rs. 48,260. It was decided to try the scheme in the Muzaffarpur District. It proved a failure there. This has been attributed to conflicting causes. We have here hon'ble members representing that district, and I shall be glad to hear what they have to say as to why people proved so inhospitable to the

Digitized by srujanika@gmail.com

scheme. Subsequently it was decided to make the experiment in the Gaya District. A smaller area has been selected. It is 197 square miles with a population of 83,530.

The rough estimate of the cost of the reduced scheme is Rs 33,476, half of which will be paid by Government and half by the District Board. I have had personal interviews with Major Ross and Dr. Tiwari. The result of my interviews is that there is no record of any similar work having been done anywhere else. We have undertaken to do something which no other province in India has ventured to do. I asked for records of similar ventures in the United Kingdom, but I failed to get any. When questioned about the progress made at Gaya, I was informed they had just appointed a part of the staff and were about to train them up. I am required to believe that there is progress, but it is not perceptible. We do believe in imperceptible motion: the revolution of the earth is an instance. We are in perpetual motion, and yet we do not know anything of it. Why then should we not believe in the progress of this scheme? This is the question I have to face.

During my inquiry I was surprised — I had almost said shocked — to find that while we were engaged in the elaboration of an experimental scheme, in August 1915 the Sanitary Commissioner wrote to Government:

> With regard to the plague policy which should in my opinion be followed by the Government of this Province, I would in the first place point out that plague as an epidemic disease has so far run its appointed course in the same way as it has always done in previous epidemics, in spite of all the preventive measures which have been adopted; and in my opinion the epidemic will die a natural death in the course of time unaffected by any of the preventive measures which have so far been tried.

Among the epidemics which are to be the subject-matters of investigation is plague. I have given above the cost of the experiment at Gaya. The Sanitary Commissioner says this cost is likely to be exceeded. The scheme has been sanctioned for three years as an experiment and demonstration. The District Board of Gaya has undertaken to supply half the amount of costs. It is with this Council now to continue it or not. The

Digitized by srujanika@gmail.com

scheme is an heritage of my office and for obvious reasons I should not offer any advice as to whether it should be continued or not, but I solicit a pronouncement of the Council in clear unequivocal terms laying down my line of duty with regard to this scheme.

The Hon'ble MR. MADHUSUDAN DAS: Sir, I cannot accept this motion for cutting down the grant by Rs. 10,000, because there is a scheme which is already in progress. I have brought it to the Council that the Sanitary Commissioner says that Rs. 25,000 will not be enough to carry out this scheme. The scheme was formulated some time ago, and I thought it my duty to invite the attention of the Council to the progress that was made, and the Council will pardon me when I say that I suppose there are members here who consider it their duty to attack the Minister, and I was therefore anxious to bring these facts to the notice of the Council and have their distinct directions as to what I should do. I may assure the Council that any order that is communicated to me — not a formal order but so far as I can guess the wishes of the Council — I shall most faithfully and with all the zeal that is possible under the circumstances carry out. I say that I shall certainly give my personal attention to this scheme, and see that it is conducted under proper supervision but I cannot accept a reduction of Rs. 10,000.

The Hon'ble MR. MADHUSUDAN DAS: Sir, I am sorry that I cannot accept this motion. I suppose some of the hon'ble members have been present at some lectures or have seen some leaflets which have been distributed and they have formed the idea that any sort of attempt to remove the ignorance on the subject is not necessary. It is really a campaign. I am glad it has been called a campaign. It is a campaign between men and disease germs, and disease germs are more formidable than the Germans. The germs find hiding places in dark places and rooms where sunlight cannot penetrate; but the ignorance of the people in the rural areas is darker than the darkest room in the most populous city.

In order to treat a patient successfully, it is first necessary that there must be a sort of responsiveness on the part of the patient. There must be a certain amount of confidence and faith between the patient and the person who treats him or

Digitized by srujanika@gmail.com

her. It is just for this reason that doctors write their prescriptions in Latin, because they should not understand. A doctor expects implicit faith in him by his patient.

I suppose every doctor's prescription contains in invisible calligraphy the expression '*fide et fiducia*'.

The Hon'ble Mr. Madhusudan Das: I was just trying to explain why, the foreign system of medicine that we are trying to introduce in this country should be made familiar to the people, so that we can command the confidence of the people and confidence by the people, that is, in the system of treatment which we are trying to introduce. It is very important that the people should be actually educated on these lines. It is all very good to say "We all have implicit confidence and faith in an I.M.S." but people in the villages do not understand the meaning of the expression I.M.S. We have to depend upon the means to be adopted to remove this ignorance. We may differ as regards the means. If it were necessary certainly the Minister and the Government generally would consult people and take into confidence people who have local influence, and this is a matter in which certainly the members of this Council can be of immense use. Without local agents, without the help of men having local influence, it is not possible to engraft a system of treatment which has its birth in a foreign country, and consequently we must have the assistance, help, counsel and advice of local men and the members of this Council. This Council is composed of the representatives of the population. The members of this Council ought to help us as to the means by which we can disseminate knowledge on this subject. But there is not the least doubt that some method should be adopted to remove ignorance, and to make the people believe that there is an earnest attempt to give them redress from their sufferings. And even if we fail actually to find out any remedy but succeed in securing co-operation of the people themselves in making them believe that Government are trying earnestly to give help and show sympathy to the suffering humanity, I think a great deal will be done.

I think I should bring to the notice of the Council certain remarks in a most valuable note which I have got from our Secretary Mr. Hallett. He says many measures for preventing diseases are within the easy reach of the people provided they

Digitized by srujanika@gmail.com

adopt them. For instance, quinine is recognized as a preventive of malaria, but the taking of quinine is not yet popular. Inoculation is a preventive against plague, but people will not accept inoculation, and so on. Then he says Major Ross and the Publicity Officer who has been recently appointed have examined a large number of lectures and have found that the majority of those are unsuitable for uneducated classes. Many of these seem to him rather simply boiled down text-books containing technical terms. So it is necessary to change our *modus operandi* altogether. But the Council must leave this to those persons who are responsible for the work. But there should be an attempt to remove the ignorance and rouse sympathy in the people, or better still to arouse that responsiveness which must exist in the patient before you can treat him successfully. On these grounds I hope the hon'ble mover will see his way to withdraw his motion.

91. Budget Demands: Civil Works*

The Hon'ble MR. MADHUSUDAN DAS: Sir, the amount there represents certain grants which have already been promised to district boards to enable them to carry out large projects. Large amounts were promised and out of the promise a certain amount is given to them every year. A part of this grant has already been given. Details of these grants may be had if the hon'ble member so wishes. I have got them with me.

Then as regards water-supply, this is also a part of the grant which is given to the district boards, and I cannot understand how the hon'ble mover can have any possible grounds for objecting to the grants for the water-supply.

The Hon'ble MR. MADHUSUDAN DAS: Sir, yes, I think, the hon'ble Rai Bahadur is right. There is the Ranjan Bridge, there is the Man Bridge, there is the Kharkai causeway and there is the Palamau Bridge and these are all metalled roads and bridges. And these are all the roads and bridges for which this amount of Rs. 4,30,000 is required. As to why the hon'ble mover wants this amount to be reduced by Rs. 60,000 specially I do not understand. If any member of the Council

*Ibid, p. 466 (date 10 March 1921).

Digitized by srujanika@gmail.com

wishes to make a reduction then in order to enable the Council to understand on what grounds such a proposal is made, the mover of such a reduction should at once show how this is to be cut down. When you have a grant which is meant to be appropriately spent under a number of projects and a motion is made to cut down the total amount, the Council is not in a position to judge as to what is the wish of the mover of this motion: Whether he wishes to stop a particular project or whether he wishes to make rateable or proportionate deduction from each of the projects which the grant is intended to cover. I am not in a position to give a definite reply to a motion of this nature, not being in a position to know what is the intention of the mover of the motion. But I have given sufficient information which ought to enable him to withdraw the motion, and I hope he will do it, for this is a simple grant for different projects which the Government have proposed to give to district boards in order that these grants may supplement the resources at their disposal and enable them to carry out the projects which are necessary for improving the communications of the districts. These grants have been made from time to time, and in most cases portions of these grants have already been paid and the district boards have started the work. The work is now incomplete and here we are asked to cut down the grant by Rs. 60,000 which means that if a bridge of 100 feet has been undertaken and 90 feet of it has been completed, it should be left without completing the rest of it. I hope the hon'ble mover of the motion will withdraw it or, if he does not choose to do so, I have given sufficient grounds to the Council to reject such a motion.

The Hon'ble MR. MADHUSUDAN DAS (p. 472): Sir, a sum of two lakhs is available for such purposes as might be considered desirable or worthy of contribution hereafter. There has been a great change. The administration of these district boards and municipalities in the hands of a Minister who really is the servant of the people makes a great difference. It has been said just now that formerly members of the Council had not the power to criticize particular items or at least to move for an omission or reduction of particular items in the budget. Now that this power has been given, I do surely hope that that power will not be used just to gratify the hon'ble member's

Digitized by srujanika@gmail.com

feeling that they have a power which must be exercised. The Minister in charge of these district boards has not the means of knowing that the district boards were surfeited bodies, though perhaps this idea might have been derived from seeing individual members of district boards. But on the contrary, I have before me a resolution to the effect that Rai Bahadur Dvarika Nath wishes that every district board and municipality should have a non-official chairman. Now, that means a very great change. I certainly do sympathize with that. That means a great change. How far the administration of the district boards by non-official chairman would increase the demands of the district boards we do not know. Specially, we have been told in this Council more than once that the roads constructed by district boards should be metalled roads, so that they might be fit for driving motor-cars. Certainly it is the duty of the Minister and of the district board to see that actual communications between the villages which can be used by the peasant for the purpose of taking rice and other commodities which he produces in his field to the nearest market, must be improved. That will mean a very great revolution as it will supply a network of communications of the district boards. But the Minister here is not in a position to know how the change in the administration would make a change in the demands of the district boards. Therefore these two lakhs were kept in reserve for the district boards; but if the Council be of opinion that the sanitary demands of the country require more money and that so much should not be reserved for the country require more money and that so much should not be reserved for this purpose, the hon'ble members will find that under the head 'Civil Works' there is sanitary improvement. Even if it is necessary to cut it down by Rs. 60,000, let it be transferred to sanitary improvement under the same head, and I shall undertake that this sum of Rs. 60,000 will be used for sanitary improvement of some kind which may be pressing at the time. I do not think it is necessary for me to take up any more time of the Council.

Budget Demands : Civil Works* (contd)

The Hon'ble MR. MADHUSUDAN DAS: Sir, improvement in water-supply is the cry both in towns and villages. Man may

*Ibid, pp. 478-80 (date 11 March 1921).

Digitized by srujanika@gmail.com

live without food for several days, but life is impossible without water. Contaminated water is the cause of epidemics. It is most unfortunate that an article so necessary for the preservation of life is often the habitat of disease-germs, the most formidable enemies to human life.

I do not know whether the hon'ble mover knows that there are parts of the country where, during certain months of the year, there is actually what I may call a water-famine. The wells and tanks, which are not deep enough to have a feeding spring, dry up and people have to walk two miles or more for their supply of water. The necessity of a remedy for this state of things was realized by Government some years ago, and in order to provide against this deplorable state of things, Government decided to make an annual grant of Rs. 45,000 to district boards. This sum is distributed among the district boards. The distribution is not done indiscriminately. Such of the district boards as spend a portion of their funds for this purpose are entitled to have their share in the distribution of this grant. The amount payable to each board is equal to what they spent in the previous year on the improvement of water-supply. Under the orders of Government the maximum amount payable to any one district board is Rs. 3,000. The Government's policy in this matter combined benevolence with foresight in regard to the ultimate responsibilities of the district boards. The responsibility for an improved water-supply in rural areas must rest with the district boards. In making these annual grants dependent on the board's expenditure of an equal amount, it was the intention of Government to furnish a stimulus to the district boards to realize their responsibilities in this direction. The introduction of the Reforms Scheme has brought in view the serious responsibilities of the district boards. According to the practice followed, the distribution of the amount during the ensuing year will be made after the amount spent by each board during the current year is known. The time for getting that information is not yet past. If this amount is not reserved, we shall not be able to meet our debts to the district boards. This is a debt due by the late Government. It is a debt arising out of a promise which has been honourably redeemed in past years. I beg to invite the serious attention of this Council to the principle which must regulate our relations

Digitized by srujanika@gmail.com

with the people. The obligations which were binding on the Government in the departments transferred under the Reforms Scheme now bind the hon'ble members of this Council which is now entrusted with the administration of the departments. The Minister is but a servant of this Council as regards the departments entrusted to him. If the master chooses to disregard his obligations, the master will be guilty of breach of faith and not the servant. At the end of this year, which will happen a few days after, when the Minister gets an account of the amounts spent by the several district boards with demands for an equal amount under the promise of the Government, he should either pay the amount or communicate to them the repudiation by the Council of the obligations. I should mention here that notice of a resolution has been received in which an hon'ble member of this Council wishes to urge the necessity of an improved water-supply.

Having accounted for Rs. 45,000, I now proceed to make some observations with regard to the remaining two lakhs. One lakh has been provided for the Puri water-works. Puri is a place which is visited by numberless pilgrims from every part of India. This province occupies a place of great honour in Hindu India in having within it this place of pilgrimage. But places of honour have their corresponding responsibilities attached to them. During the car festival and other festivals thousands of pilgrims visit Puri. It is necessary that we should realize our responsibility with regard to their health and life during the time we have these guests who come there from sacred motives.

This Council has passed laws for lodging houses. But without an improved water-supply it is impossible to provide a proper safeguard against the ravages of cholera which has become endemic in the place and in the district. The matter engaged the serious attention of the late Local Government, and no less, that of the Government of India. A project of water-works has been worked out. The cost is estimated at eighteen lakhs. It is impossible to expect the municipality to bear this cost. The idea of raising a portion of this amount by a terminal pilgrim-tax is under consideration. If this is found sufficient to meet the cost of maintenance and meeting loan charges, a loan might be resorted to. It is my intention to come to a decision on this matter during next year. The provision of one lakh is meant to start work soon after the scheme for raising funds is

Digitized by srujanika@gmail.com

matured. I should mention here that the Government of India made a grant of three lakhs for this purpose, and one lakh out of that amount is included in this item sought to be curtailed.

There is yet another lakh which needs an explanation. When the Hon'ble Mr. LeMesurier allotted the revenue under his control to the reserved and the transferred departments he was very generous to your Ministers, knowing that the demands on their purse will be very great in consequence of the altered situation. It is due to this generosity that I have at my disposal small sums of money which have been reserved for purposes earmarked but at the disposal of the Minister in charge of Local Self-Government.

In the item now under discussion there is one lakh of rupees. This has been earmarked for water-supply in the municipal areas. The demand for improved water-supply is everywhere — in rural as well as municipal areas. I have already referred to the provision under this head for the rural areas. But there is necessity for this in most municipalities where the water-supply is not satisfactory, and it is beyond the means of the municipalities to afford the funds for its improvement. Applications have been made in the past for grants, but owing to the financial stringency during the war — and this stringency was enhanced last year by other causes — it was not deemed proper to examine the comparative claims of applications from municipalities for grants for this purpose. I have decided to go out on tour and inspect both municipal as well as rural areas and decide where the demand for water-supply is urgent and immediate. The transfer of the administration of these local bodies means a great change to those bodies. Hitherto they had to move through the local officials for these grants. There is now a demand for non-official chairmen. A resolution for this change will soon be moved by a distinguished member of this Council, and I am in sympathy with this demand. When the administration passes into the hands of non-official chairmen, in many cases it will be necessary to give the non-official chairman some help in the matter of water-supply where the funds at his disposal are insufficient for the removal of the want, and his inability to remove an urgent want might contribute to the unpopularity of non-official administration and such unpopularity, the Council will agree with me, is undesirable at the beginning of the Reforms.

Digitized by srujanika@gmail.com

I may inform the Council that in making grants to district boards and to municipalities I shall adopt the same principle that was adopted by the late Government, that is to say, I shall make the grant contingent on the municipality raising an equal amount. Local bodies must be trained to bear the burden which the Reforms Scheme has in store for them in the future, far and near. The giving of a grant on condition of their raising an equal amount is a good stimulus to the development of a spirit of self-help, which must be the corner-stone of the edifice of self-government. Confidence of this Council in their Minister is essentially necessary for the success of the Reforms Scheme. No Ministers who has the success of the Reforms Scheme near to his heart will consider it worth his while to continue in his office for a single day without this confidence. You will soon have a committee of hon'ble members elected by you to advise the Minister. There is a Sanitary Board to advise him on applications for water-supply and other sanitary measures. But the Minister must have a certain amount of discretion, otherwise his personal observations during tour will be perfectly useless. If you don't wish the Minister to go out on tours, the Council should pronounce its decision on the subject. I believe that it is not possible to create public interest in self-government without the Minister touring through the length and breadth of the Province and bringing himself in touch with the people generally. Let me inform the Council in clear and emphatic terms that it is better that His Excellency should be moved to advise a Minister to resign his office rather than that his sacred duties should be entrusted to a man whom this Council as an august assembly of the representatives of the millions of this Province do not consider worthy of their confidence.

The Hon'ble MR. MADHUSUDAN DAS*: Sir, I have been favoured by our indefatigable Secretary, Mr. Hallett, with a note on this subject. As a large amount of this money goes towards the improvement of the condition of Patna and as he has personal knowledge of the need, I asked him to prepare a note which I shall now place before this Council.

	Rs.
Public improvement — sewerage and drainage	2,29,000
Proposed reduction ...	1,00,000

*Ibid, p. 482. Spoke on Sewerage and Drainage.

Digitized by srujanika@gmail.com

I regret that a motion has been brought forward to reduce this item. The funds available for sanitary improvements are by no means equal to the demand, and I presume that the hon'ble member has only brought forward this motion with a view to eliciting information as to what it represents and not with a view to curtailing expenditure of this very necessary object.

Of the amount provided, Rs. 1,54,000 represent a grant which it is proposed to give to the Patna Municipality to enable it to take up another portion of the drainage scheme which has been prepared. The insanitary condition of Patna has already been the subject of a resolution in the Council, and that motion has been carried. I cannot imagine therefore that the Council are anxious to curtail the grant which provides Government with some of the funds needed for the improvement of the Capital of the Province.

The balance of the item Rs. 75,000 is for the improvement of the sanitary condition of another important town of the Province, Muzaffarpur. A scheme was drawn up in 1914 for the sanitary improvement of the town by the construction of water-works, and a drainage system at a cost of Rs. 8,75,000 to which Government agreed to contribute Rs. 3,40,000, the balance being met by loans, public subscriptions and grants from the district board. The work has been taken up in two parts and the cost has been reduced. The construction of water-works has recently been completed at a total cost of Rs. 4,64,000 which was financed by a Government grant of Rs. 1,50,000, a loan of Rs. 79,000, public subscription amounting to Rs. 1,55,000 and a contribution of Rs. 1,00,000 from the district board. The sewerage scheme with the water-supply scheme will complete the general scheme for the improvement of the sanitary conditions of the town which is now estimated to cost just over Rs. 3,00,000. Government have already given Rs. 75,000 and it is proposed to give a further grant of Rs. 75,000 to be given this year, if the provision made in the budget is voted, provided the Municipality can raise the balance required. Government will thus have given in all Rs. 3,00,000 to meet the total cost of Rs. 7,64,000.

I hope the hon'ble mover will spend a few days in Patna to see the sanitary condition of the Capital of the Province, and in view of that, I think he will withdraw his motion.

Digitized by srujanika@gmail.com

The Hon'ble MR. MADHUSUDAN DAS*: Sir, in introducing the budget under the head "Special grants at the disposal of Commissioners of Divisions", I said, "this grant enables Commissioners to meet the cost of minor works of public improvement which may be necessary in the course of the year and is also available for distribution by them to local bodies". A small grant of Rs. 10,000 is also provided for District Officers for the same purpose. Perhaps it is not necessary to enlarge on this point.

This is a provision against unforeseen emergencies which create a demand for immediate medical relief or sanitary measures. The Commissioner of the Division being on the spot, gets information of unforeseen demands for immediate medical relief or the introduction of sanitary measures, and we can easily conceive cases where delay involved in an application to Government for funds will render the help next to useless. The sudden outbreak of cholera or plague over an extensive area might necessitate an additional supply of medicines, the normal supply in the dispensary being found insufficient for the occasion. It may be necessary to appoint temporary doctors. Where the problem of saving human lives has to be solved, delay in giving relief is highly regrettable, if not reprehensible. Every head of a family who is responsible for the well-being of the members of the family puts by a portion of his income as a provision against emergencies of this nature.

A few years past, Divisional Commissioners had been provided with a sum to be used for purposes mentioned above, and experience shows that they have used the money entrusted to them very prudently.

I have watched with pleasure and admiration the anxiety of the hon'ble members to increase the facilities for medical relief and the execution of sanitary improvements when there is danger to life, or when the sufferings of the people are likely to be aggravated by delay.

The mover of the resolution does not seek the omission of the provision; he has asked to reduce it by one lakh. This, I am inclined to think, is due to the fact that in the revised budget of the present year there is a provision of Rs. 20,000 under this

* Ibid, p. 483.

Digitized by srujanika@gmail.com

head. I should mention that last year owing to financial stringency the amount had to be reduced.

The Commissioners' discretion in the distribution of the amounts at his disposal has been in the past, and will be in the present instance, restricted by instructions which will make the amounts available for purposes of the kind mentioned above.

I hope the hon'ble mover will see his way to withdraw his motion.

The Hon'ble MR. MADHUSUDAN DAS: Sir, a large number of motions were withdrawn when the movers of those motions received the necessary information regarding the items to which the motions referred. This leaves no doubt that the budget should contain more details. This would obviate in future necessity of lengthy budget discussions. I have no doubt there will be nothing wanting on the part of the Financial Secretary, who combines in him an indefatigable energy with an obliging nature, to supply the necessary information in the next budget. I have no doubt this would have been done on the present occasion too, had it not been for some unforeseen difficulties which stood in his way.

The laconic and at the same time indefinite nature of the entry in the budget is, I believe, to a great extent, if not wholly, responsible for this motion. The entry 'other contributions' suggests the idea of the total absence of any control over this expenditure; in other words it is suggestive of a latitude of discretion which verges on arbitrary power. I shall show the hon'ble mover that neither is meant; on the contrary the entry refers to items which, besides being grants which stand on past obligations, disclose interesting facts which have their interest at a time when the country has uppermost in its mind the success of the Reforms Scheme. A detailed list of the items covered by the entry in the budget will be found at page 13 of the memorandum on the budget estimates for 1921-22. The first item is the Khondmals road fund for plough tax. The history of this contribution is most interesting. The Khonds are one of the aboriginal tribes to be found in the non-regulation tracts of Orissa. So far back as the seventies of the last century, the Khonds levied a tax on themselves which was in the nature of an excise tax, and they decided that the

Digitized by srujanika@gmail.com

proceeds of this self-imposed tax should be spent for purposes of education and communications. It was in appreciation of this spirit of self-government that Government decided to give the Khonds a grant. Though the tax was on the number of ploughs each man possessed, the Khonds refused to call it land revenue or compulsory tax. The people agreed to collect the tax themselves without the intervention of Government agency. The Government entered into an agreement with them to pay Rs. 3,000 as their contribution to the fund thus raised. There was a regular solemn contract of which I shall read a portion now.

> Whereas you have agreed to subscribe at the rate of three annas per *hul* for the good purpose of making roads and establishing markets and communications in your *mals*, and your wish has been reported to Government of Bengal, and your proposals have received the sanction of the Government of Bengal, and of the Government of India, conveyed in Government letter No. 2323 of 19th November 1874.
>
> * *
>
> I also assure you that the plough rate you have agreed to pay is not to be considered as either a land revenue assessment or as a compulsory tax; but the amount you may contribute will be considered and treated as a subscription voluntarily paid by you all for the good for your country and for its general improvement.
>
> I look to you to see that no departure is made from your agreement to collect the three annas rate on each plough, and not to depart from the assurance you have given me, and I depend on your honesty and truthfulness. The word of a Khond is his oath and not to be parted from.
>
> * *

There are some people who hold that the Indian is not likely to respond to the burden of a responsible government. My reply to such of our critics is 'look at the Khonds of Orissa'. Give the Indian a suitable atmosphere and he will soon develop broad shoulders capable of bearing the burden of responsible government. I shall now read an office note which gives the

Digitized by srujanika@gmail.com

facts justifying grants to the bodies named at page 13 of the memorandum.

Singhbhum Road Committee (now District Board) — Rs. 15,000: Since 1879 (with a single exception in 1908-9) up to 1912-13 Government were giving the Singhbhum Road Committee an annual grant of Rs. 10,000 for road work as the Cess Act was in operation in two parganas only. In 1912 the question of raising the grant was considered with the result that it was enhanced from Rs. 10,000 to Rs. 15,000 from the year 1913-14.

Puri Municipality for contribution out of the proceeds of the Balukhand Government Estate — Rs. 4,000: In the year 1876 some lands were purchased out of the proceeds of a fund called the "Town Improvement Fund" which subsequently merged into the Puri Municipal Fund when the municipality was created in 1881. In view of the fact that the fund from which the land was purchased was of a municipal nature and that the retention of the land in the possession of Government was in the interest of the administration, Government decided to refund the purchase money to the municipality and further to pay a share of the proceeds of the land in question (i.e. the khasmahal lands) for expenditure by the municipality on sanitary improvements. The amount payable to the municipality is one-third of the net collections from the estate [i.e. ⅓rd (gross collections) minus 12 per cent (management grant)]. It is calculated on the actual collections of the year immediately preceding that to which the the grant relates.

Improvement of communications in Sambalpur — Rs. 13,000. In 1907-1909, at the instance of Sir Andrew Fraser, the question of roads in the district of Sambalpur was considered, and a special grant of Rs. 12,000 a year was sanctioned for the years 1909-10, 1910-11 and 1911-12. The same amount was repeated annually during the years 1912-13 to 1914-15. In 1915-16 the grant had to be raised to Rs. 13,000 on account of the transfer of certain Public Works Department roads to the District Council, and this increased amount was repeated annually during 1915-16 to 1918-19 and again during the years 1919-20 to 1921-22.

Digitized by srujanika@gmail.com

Patna Municipality for maintenance of certain roads — Rs. 20,000: For metalling and improving certain roads in the Patna City Municipality and indirectly to ease the financial condition of the Municipality, Government sanctioned a grant of Rs. 20,000 a year. It was sanctioned for four years, 1914-15 to 1917-18, in the first instance, repeated in 1918-19 and renewed for another quinquennium from 1919-20 to 1923-24.

District Committee of the Santal Parganas for communications — Rs. 50,000: Road-cess collections in this district date from the year 1905-6 and it has been the practice to supplement the income of the road fund by liberal Government grants. The grants made to the District Committee were as follows:

	Rs.	
Up to 1882-83	25,000	(annual)
From 1883-84 to 1890-91	34,000	,,
From 1891-92 to 1893-94	39,000	,,
For 1891-95 ...	44,000	,,
From 1895-96 to 1900-1901	50,000	,,
From 1901-2 to 1907-8	60,000	,,
For 1908-9	Nil	
From 1909-10 to 1913-14	60,000	,,
For 1914-15 and 1915-16	75,000	,,
For 1916-17	45,000	,,
For 1917-18	50,000	,,
For 1918-19	50,000	,,
For 1919-20	1,00,000	,,
For 1920-21 ...	50,000	,,

Rs. 50,000 has been provided in the budget for 1921-22. The grant has been promised for five years.

The provision of Rs. 2,13,052 thus represents grants already promised by Government to some of the poorer district boards, e.g. Singhbhum, Sambalpur and the Santal Parganas, for the improvement of communications. Without this assistance the district boards would either have to refrain from taking steps to improve their communications or to curtail their expenditure under other heads. The amount provided also includes the provision of Rs. 1,00,000 under the head 'Tarbana Land

Digitized by srujanika@gmail.com

Acquisition'. This was provided in order that Government might be in a position to fulfil a promise made some years ago to the Bhagalpur Municipality to acquire this insanitary area and thereby improve the condition of the town. The representative of the Bhagalpur urban constituency has drawn attention to this matter by means of a question, and I would ask him, if this vote is seriously challenged, to explain in greater details its necessity. I may add, however, that it is probable that the Government may be able to make a portion, if not the whole, of the grant required this year and thereby wipe off the debt. If this is done, the money will be available for sanitary measures in other towns and districts, and I shall ask the advice of the Sanitary Board or of the Standing Committee before sanctioning any allotment, and shall also be glad to receive any suggestions from members of the Council.

92. Resolution: Non-official Chairman for Municipalities and District Boards*

The Hon'ble MR. MADHUSUDAN DAS: Sir, this resolution has been divided by Mr. Weston into two parts.

One part of the resolution deals with the desirability of having non-official chairmen and the other deals with, what I may call, making an official ineligible to be a chairman. I shall show that not only have Government accepted the public demand for a non-official chairman but have taken active steps to supply this public demand, and this has been done only so far as the law permits Government to do. It must not be lost sight of that the Municipal Act and the Local Self-Government Act were made at a time when the country was not what it is now, when public aspiration was not what it is now, and was in fact very far behind the present state of things. The Minister has been in charge of the department since only January last.

There seems to be an impression that the Minister has the power to comply with public demands irrespective of the provisions of the law.

*Ibid, pp. 681-89 (date 18 March 1921).
Rai Bahadur Dvarika Nath moved the resolution:
"That every Municipality and District Board shall be permitted to elect a non-official Chairman and no official shall be eligible as a candidate for Chairmanship unless a non-official candidate is not available."

Digitized by srujanika@gmail.com

Neither the Minister nor any King or Emperor can break the shackles of the law that have been forged here and these shackles, if cut asunder, must be cut asunder in this Council Chamber. I cannot therefore too forcibly impress on the minds of the hon'ble members of this Council the fact that it is not within the power of the Minister to disregard the provisions of the law as they now stand, and it should be the duty of this Council to change the law if they wish to give greater powers to the Minister responsible for the administration of the Local Self-Government Department. Looking at the provisions of the Municipal Act, I find that the municipalities in the Province are classed under two schedules. Those placed under the second schedule have not the privilege of electing their chairman. This privilege according to law belongs to those municipalities which are not included in the second schedule, *vide* section 23 of the Bengal Municipal Act, clauses 1 and 2. In the case of the municipalities not included in the second schedule, the commissioners have the power to elect one of their members to be chairman, or may, at a meeting attended by not less than two-thirds of the commissioners, request the Local Government to appoint a chairman. It will be seen that the above provision gives the commissioners a power to elect an official as their chairman when he is a member of the municipal board. It also authorizes the commissioners under the circumstances mentioned above to request the Local Government to appoint as chairman a person who is not one of their member. The law distinctly makes an official eligible for chairmanship. Without an alteration of the law, it is not possible to accept that part of the resolution which says that no official shall be eligible. What the resolution seeks is to invalidate the election of an official as chairman. This requires legislative sanction. Any attempt to make an official ineligible for chairmanship in the present state of the law would amount to deprive the commissioners of a right which the law confers on them.

I shall next deal with the other part of the resolution which contains the words 'shall be permitted to elect a non-official chairman'. There are at present 11 municipalities in which the chairman is appointed by Government. Of these, Daudnagar, Tikari, Chatra, Jhalda, Raghunathpur, Kendrapara and Forbesganj declared themselves unwilling to have the

Digitized by srujanika@gmail.com

privilege of electing their chairman. This was in 1918. These municipalities will be again consulted, and if they wish to have the privilege, it will be extended to them. Patna, Chakradharpur and Lohardaga wanted the privilege but on the recommendation of the local officers, Government decided not to give the privilege to them. The case of Patna has already been considered, and Government in the Ministry of Local Self-Government have appointed a non-official as chairman for the remaining term of office of the present munipical board and the right of election will be given when the new board comes into existence. Lohardaga and Chakradharpur will be removed from the second schedule and, as soon as the other municipalities communicate their desire to have the privilege, it will be given to them.

Turning now to district boards, the right to elect their own chairmen has already been conferred upon the important district boards of Patna, Cuttack, Bhagalpur, and more recently, Gaya. The other district boards of the Tirhut (p. 683), Bhagalpur, Patna and Orissa Divisions are being asked to express their wishes in this matter, and the decision will rest entirely with the non-official members of the boards. I am aware that the board of which the hon'ble mover is a member, when asked its opinion in 1918, passed a resolution in favour of an appointed official chairman, and that this resolution was carried by the casting vote of the chairman and supported by the official members who were present at the meeting. To avoid the decision of district boards being influenced by the official members, orders have been issued, directing official members not to vote or take part in this discussion. The opinions of the district boards have not yet been received. It is possible that some of them may prefer official chairmen, especially in the districts where the work to be carried out involves a considerable amount of touring which can be conveniently carried out by an official in connection with his other duties, but would throw a very heavy burden upon an honorary non-official chairman. If the non-official members of the board express this wish, their wishes will be respected but if subsequently they change their opinion or, if a new board is constituted which holds a different opinion, Government will always be prepared to grant the right.

Digitized by srujanika@gmail.com

Though the right to elect their own chairman will be given to the district boards which desire it, it will still, as in the case of municipalities, be open to them, if they wish, to elect an official, but the provisions of the two Acts are different. A municipal board can ask Government to appoint a chairman who is not already a municipal commissioner. A district board under the provisions of section 22 of the Local Self-Government Act must elect a chairman either by name or by virtue of his office from among their own number. In cases where the district boards have been given the right to elect their chairman, the District Officer will be no longer a member of the board and so ineligible for election, and it is improbable that a board would elect another official to the post. Further, Government last year issued the following instructions:

> While it is not intended that officials should altogether be prohibited from standing for election, the Local Government desires that officials serving on local bodies should take no part in such election either in the nomination of an official candidate or in voting for or against him. These orders will thus secure than an official is only elected by the express wish of the non-official members. I may add further that Government will not approve the election of an official unless there are special reasons for such an election.

I trust that in view of my remarks the hon'ble mover will withdraw his resolution which, in its present form, can hardly be accepted by Government as it seeks to go further than the existing law permits. I think he will appreciate the steps which are being taken by Government to secure non-official chairmen of local bodies, and will realize that the Council will be given an early opportunity of revising the law to meet their wishes.

With regard to the remarks that fell from Mr. Weston, I think I should offer a few observations. Hon'ble members of this Council should always remember that the object of this local self-government and the object of the Reforms is to transfer responsibility, and no doubt that is the reason why the subjects administered by the Ministers are called Transferred Subjects. There can be no transfer unless two conditions exist, and the necessity of the existence of these conditions is realized by those who are responsible for the administration of these

Digitized by srujanika@gmail.com

departments. The first condition is that you cannot get a body of people to realize their own responsibility and act up to their responsibility if you interfere with the administration entrusted to them. What is the reason ? Why do we so much wish to have non-official chairmen ? What are the reasons for resenting so strongly the practice of having a Magistrate as chairman ? The reason is in the object, which is that the people should understand their own duty and learn to discharge the heavy responsibilities which have been thrown on their shoulders, and there should not be an official to dictate to them, for official dictation really means interference with the free discharge of duties. The official may be transferred to-morrow, but the institutions as self-governing institutions will have to be maintained always, and the responsibility of that administration will rest with the local people. That is the reason which impels or constrains people to complain against the interference of officials in the administration of local bodies. If we complain against such interference from our local officials, and yet, when in this Council, we ask the Ministers to exercise the same kind of control over these local bodies in the name of Government, what will be the effect of such a course ? You will never develop in these local bodies that due sense of responsibility which will make them local self-governing bodies. You cannot any more call them local self-governing bodies if they are to be governed or if their administration is to be guided by the orders of the Minister or anybody else. If the Minister or this Council undertakes to dictate to them that you must spend so much money on such and such an object, it is the worst kind of interference that you can think of which would undermine the efficiency and development of the local bodies. I am prepared certainly to go so far as to say that at an initial stage of these local bodies, administrative efficiency should be sacrificed to the educative needs of these local institutions. It does not matter if an administration, when first undertaken by a non-official chairman, suffers in efficiency provided the members interested in a local body understand that this is just a training which is being given to them in order that they may themselves administer these things without official help. Whatever hard words might be spoken against the officials, I am sure I should not be doing my duty if I were not to say here that there are among officials

Digitized by srujanika@gmail.com

men who are quite willing to place their official experience at the disposal of non-selves of that experience. We should remember that after all we have so many Englishmen, and it would be actually doing injustice to the nation if I were to say that there was no Englishman out here who does not know his own nation's history and that he belongs to that nation that actually abolished slavery from the world. England has raised so many foreign nations to a position of elevation.

I have my own experience. It was in the eighties that I was the non-official vice-chairman of a district board, and I undertook that responsibility only on the condition that the chairman would give it in writing, and after two years the Government called upon him to give an explanation why he had not attended the meetings of the district board, and his reply was that if it was the wish of Government to encourage local self-government, it would be an injustice to interfere with any work of the vice-chairman who was doing his duties very satisfactorily. It must at the same time be said (and I have heard in this Council remarks to the effect) that some members of some district boards do not do their duty. We want responsible government. We should not forget that the gift of responsible government, the concession of a responsible government or of any step that leads to responsible government, must produce a responsiveness on the part of the people who are eventually and ultimately to take on their shoulders the burden of responsible government. It should be the sacred duty of every member of this Council to develop that sense of responsiveness in the country all throughout. Let everybody feel that he has a share in this administration and he must do (to use the common expression) his little bit in this work. If this is done, if the people are willing to do their share of the work, I have no doubt that there will be nothing wanting on the part of the Government to give them that right which they are legitimately entitled to. I may assure the Council that nothing can be further from the intention of Government in the Ministry of Local Self-Government than to put any obstacle in the way of people having non-official chairmen, and I should be the first person to advocate the deletion of anything in the Act that might be construed to put an impediment to the realization of the wishes of the people. But I hope

Digitized by srujanika@gmail.com

that hon'ble members will in the meantime develop a desire to have non-official chairmen. Let us see that before this Act comes on the anvil of the Legislative Council there shall be no part of the country from where the cry will come, 'we do not want a non-official chairman'. You may take a horse to a bucket of water but you cannot make him drink. We have done all that we could. We have asked the official chairmen not to vote and not to stand as candidates. Government wants only the wishes of the non-official members of the municipal as well as district boards on this subject. I hope the hon'ble member will see that the Government are doing all that lies in their power without breaking the shackles of legislation to fulfil the wishes of the people.

The Hon'ble MR. MADHUSUDAN DAS: I have said that the law will be amended soon. It is for this Council to do it.

The Hon'ble MR. MADHUSUDAN DAS: Sir, I cannot accept the resolution as it stands now. But, as has been said in the speeches, that really means that effect will be given to it by an amendment of the law. Now that the Council has expressed its wish, I accept the resolution, subject to this — that the law will be amended as soon as practicable.

The Hon'ble MR. MADHUSUDAN DAS: What I mean is that the fact should be recorded in the proceedings. I accept the resolution subject to this — that the law will be amended at the earliest possible opportunity.

The resolution was then put and carried.

93. Resolution: Charitable Dispensaries in Rural Areas*

The Hon'ble MR. MADHUSUDAN DAS: Sir, of course the other day Government accepted the resolution with certain modifications just in these terms. The object of this was to provide medical relief in every police-station, and certainly in any case when it is brought to the notice of the Government that immediate relief is necessary and there exist special circum-

*Ibid, p. 704 (date 18 March 1921).
Mr. Baijnath moved the resolution:
"to take immediate steps in organizing charitable dispensaries in rural areas of those Provinces where want of medical relief at present is causing a woeful state of affairs."

Digitized by srujanika@gmail.com

stances which call for immediate help, I may assure the hon'ble mover of this resolution that such suggestions will have my immediate attention. I may also assure him that the expression which we have made use of in this House — bricks and mortar — will not stand in the way, provided there be some sort of shelter available to the doctor and for the store of medicine, of which, I hope hon'ble members will give us some information. The hon'ble mover of the resolution contends that the Ministers and other Members of Government should be, as it were, in possession of facts and figures. I am sorry I am not in possession of all facts and figures relating to this Province as to whether there are houses available and the number of sick people whose cases have not been attended to. And the mover also said that if they were not in possession, they should then vacate their seats for those who were in possession. I am quite willing to vacate my seat in favour of any one. I confess that I do not possess any such information, neither do I think that I shall ever be in possession of any detailed information of this nature. If there is any person in the Council who is in possession of this information, I shall be glad to ask him a few questions.

94. Resolution: Measures against Non-Co-operationists*

The Hon'ble MR. MADHUSUDAN DAS: Sir, a few days ago we had a long discussion with regard to what was called the 'Rainy Circular'. It began with the name of 'Rainy' and was expected to cool an atmosphere outside, which had become hot, but the debate made it a stormy circular.

Now, we have got reference to what has been called the 'Hallett Circular'. I must say at the outset that I am responsible for every word of that circular, though it has been issued over the name of Mr. Hallett. By just a reference to the wording of the circular, it will be seen that calling it the 'Hallett Circular' is not fair either to the circular itself or to the author of it. I, therefore, crave your permission, and,

*Ibid, pp. 723-26 (date 19 March 1921).
Maulavi Hafiz Nazrul Haqq moved that "this Council recommends to the Governor-in-Council to issue instructions to the District Officers to refrain from the policy of adopting repressive measures against non-co-operationists.'

Digitized by srujanika@gmail.com

through you, the permission of this Council, to read out that circular which will show the exact nature of the circular, the purpose it was intended to serve and whether there is any possibility of its being misunderstood or whether any attempt whatever has been made to exercise any sort of coercion over the wishes, intelligence and understanding of the people to whom this circular was addressed. The circular is addressed to the chairmen of the district boards and municipalities. Municipalities and district boards are an integral part of the general administration of the Province. It is the duty of the office-bearers and members of these institutions to refrain from committing any act which might be construed as supporting the non-co-operation movement, which denounces co-operation in any form with the existing system of administration. The mere presence of persons who have a share, however small, in the administration of municipalities and district boards at meetings meant to advance the cause of non-co-operation, is likely to be construed into sympathy with the object of the movement as these meetings are attended by the ignorant masses. Much stress is laid on the avowed non-violent character of the movement by the politicians' propaganda, but it must be remembered that the work of propagation is carried on by volunteers over whom the author of the political movement has no control. As people carry on the work of propagation without having direct instructions from the author of it, it is most likely that the occasion will be used by a class of men who are to be found in the population of every country for indulging in habitual lawless propensities. Political teachings undergo transformation, and during propagation this transformation is beyond the control of the author of these teachings. An instance of this will be found in Mahatma Gandhi's Satyagraha movement. He admits that his teachings have been misunderstood by the people and have produced a result entirely different from what he had desired.

The Government at the present moment are doing all they can to make the people realize their responsibility of self-government and to take an active interest in it. It is absolutely necessary that those responsible for the administration of district boards and municipalities should avoid even appearing at any place which might be construed into being in sympathy with

Digitized by srujanika@gmail.com

the non-cooperation movement. The Local Government in the Ministry of Local Self-Government invite the attention of all district boards and municipalities to circular number so and so, that refers to 'Rainy's circular', an extract from which is annexed. This circular was rendered necessary because in some districts, Government officers attended meetings held in support of non-co-operation, and their presence at these meetings was interpreted as showing sympathy with the movement. In inviting the attention of district boards and municipalities, the Local Government in the Ministry of Local Self-Government desire that these institutions should take such measures as they consider suitable to prevent their office-bearers, members and employees from attending non-co-operation meetings or doing any other act which might be construed as being in support of, or in sympathy with, or acquiescence in the non-co-operation movement. Leave it to them to decide. The chairmen of district boards and municipalities are requested to report through the proper channel what measures they have adopted in order to give effect to the suggestions of the Government. The Government have left it entirely to them as to what measures they are going to adopt and they have been asked to report.

Now, the last speaker, the Rai Bahadur over there, said — I could not exactly follow the words but from certain words which reached my ears, I was not aware that I was particularly unfortunate in my auricular appendages — that there should be discretion, and the reference was also made with a view to differentiate between the nominated members and elected members and that while the nominated members may be dictated to a certain course of conduct, the discretion of the elected members should not in any way be assailed. That was the purport of the remarks as I understood it. Now, I do not care, nor is it necessary for my purpose at the present moment, to refer to any acts or deeds or the plans of non-co-operators as they have been called, but I should take the word itself 'non-co-operation' as it has been interpreted by the actions of its followers from time to time and ask whether this Council — I am addressing every member of this Council, the nominated as well as the elected members, and the officials — are not bound to take a defiant attitude with regard to those who call themselves as advocates of non-co-operation. What is non-

Digitized by srujanika@gmail.com

co-operation? Who are the followers of it? When did this Council first come in contact with them? What were the manifestations, the initial manifestations of their activities and energies? Are you not aware that during the election period people went about preaching that you must not go to the Council, that it is a place where there is a slavish mentality and where Satan himself sits as the president of a workshop where they forge the chains which bind all human intellect. Was not this the description that was given of this Council Chamber to candidates for election and yet here we are? If we are to be interpreted by the non-co-operation-*wallahs* by what name will they call us? They call us people who have assembled in Satan's workshop to work out the destruction, the ruination of their own country. Now, this is a place where we have, as it were, subjected ourselves to a depth of degradation which is to be found in a place where Satan alone resides.

Now, whatever may be the difference between elected and nominated members, or between officials and non-officials, there is one point on which we are all agreed. Before any one of us took any part in the deliberations of this Council, every one had to swear allegiance to the King. There is no difference between nominated and elected members here, and by taking that oath of allegiance to the King we have bound ourselves to work out *swaraj* — if I may use the expression which has been adopted even by His Gracious Majesty in his latest message to India — we have decided that we must work out *swaraj* within this Council Chamber within certain restrictions. Our journey to our destination rests through a road which has two boundary lines — the Union Jack — defining the limits of the road. Outside these limits are a class of men who tells us, 'Where are you going?' They tell us 'we are going to have destruction. That is a place where you will meet Satan — a place where you will find your country ruined and destroyed — there you will find the wrecks and ruins of your country'. And is this the state of description which we should allow to go unchallenged? Is not the Council Chamber the place where the first and greatest politician in India, Dadabhoy Naoroji, said that the battle of India should be fought? Is not the Council Chamber the place where men like Gokhale, of

Digitized by srujanika@gmail.com

revered memory, said that we must play our part and make every effort to obtain the freedom of India? Is that not the place where we should fight out the battle for this country? Am, I, after having been associated with this Council work for over 30 years, to stand still and be the silent target of all these assaults and be accused of working out the destruction of my own country in this Chamber? Of course it is open to everybody who says 'I denounce that oath of mine and would go out and join and sympathize with the non-co-operation movement'. But what have the non-co-operation done? What definition have they put upon us? What designation have they assigned to us? What is our position in this Council? Is it not the place where we are to work out the salvation of India? What is our position in the words, in the language and in the phraseology of the non-co-operators? And if we are to take that into consideration, I am sure everybody will agree with me here, not only in this Council Chamber but outside as well, that these are millions of people whose custodians see no distinction between the duty of the Government to maintain law and order and the policy of repression. As I suspect, Sir, that this line of defence is likely to be adopted by the speakers from the official benches, I should like to say a few words to show that a policy of repression does exist.

95. Resolution: District Boards and Free Primary Education*

The Hon'ble MR. MADHUSUDAN DAS: Sir, this is a motion which touches both sides of the transferred subjects, namely primary education and the district boards. So far as primary education is concerned, my friend, the Hon'ble Khan Bahadur Fakhr-ud-din has explained the situation very fully. I need not therefore waste the time of the Council by further remarks, but I should most respectfully and, at the same time, emphatically invite the attention of this Council to the importance of making suggestions or passing resolutions which would put limitations on the powers of these boards. The question for considera-

*Ibid, p. 786 (date 21 March 1921).
Maulavi Hafiz Nazrul Haqq moved:
"This Council recommends to the Government that the District Boards in the Province be directed to devote at least 10% of their income for primary education."

Digitized by srujanika@gmail.com

tion now — and this is a question of the greatest importance at this period of the life of these local bodies — is whether these local bodies should be allowed an opportunity to use their discretion without any outside control or restraint in the discharge of the duties and the responsibilities which the present system has brought in, or whether they should have restraints, guidance and orders from this Council, or elsewhere, to guide them in the discharge of their duties. Our course should be such as would develop that spirit, that power, that willingness to work which would ultimately produce responsible Government in India. Are we likely to arrive at that destination — I had almost used the word destiny of India — by putting fetters on the powers of the local bodies, like some parents who do not like to concede any discretion to their children; or should we give them a fair chance to exercise their own discretion and powers without putting any fetters? I do not like to say anything, but at the same time this Council may do one thing. If it is the intention of the Council to attach importance to any particular branch of the responsibilities and duties of the district boards, they may very well express their opinion without doing so in such a manner as would place limitations on the powers of the board. If it were said that this Council attaches great importance to primary education, and this Council hopes that the district boards, wherever they can, will do their best in this matter that would perhaps further the purposes of this Council, better than having 10 per cent of the income earmarked. We should bear in mind that the district board fund is composed of incomes from many sources. Government, gives a grant and would the district board be justified in spending on primary education the Government grant which is earmarked for certain other purposes, and would they be justified in using funds earmarked for education for digging wells for water? I beg to be excused for inviting the attention of this Council to the fact that this is a Legislative Council where law is made and will have to be made, to bind the world, and consequently resolutions passed here are something in the nature almost of legislative enactments. Therefore in construing a resolution, we must construe it by the words as they are in the resolutions 'Ten per cent of their income'. Government grant two lakhs for water-supply. That is an income, but it is earmarked, and you cannot spend 10 per cent of that on primary education. I do not like to express any opinion, but of course if the

Digitized by srujanika@gmail.com

Council passes a resolution, if the resolution is as it must be in the form of a recommendation to Government, and if the resolution is of such a nature that it is inconsistent with the existing provision of any law, or not consistent with any resolution already passed, it would be the duty of the Minister to give his advice to Government, in a way suggested by the existing conditions or legislative provisions.

96. Resolution: Localization of Expenditure of Local Bodies*

The Hon'ble MR. MADHUSUDAN DAS: Sir, I just want to speak a few words before the House, not with a view to express any opinion of Government with regard to this resolution, but if I speak a few words, it will be with a view to make the situation clearer and I suppose the discussion will thereby be focused and move round relevant points instead of as is often the case, the discussion becoming long on account of not focusing the relevant points altogether. Then the hon'ble members will be at liberty to discuss the subject, and whatever be the opinion of the Council it will be considered final.

I do not want at present to express any opinion as regards this question so far as Government is concerned. I simply suggest that looking at the Municipal Act, we find that each municipality is a unit of administration, and therefore you find in the Municipal Act it is called a corporate body. I am very glad indeed that there are lawyers in this Council, as we are concerned now with the interpretation of the law. I submit for the serious consideration of this Council these things: that a corporate body means that every part of it is, as it were, in relation of interdependence. When Dr. Harvey discovered and announced to the world the theory of circulation of blood, he established and proved to the world the interdependence of the different parts

*Ibid, pp. 880-81 (date 22 March 1921).
Malik Mukhtar Ahmad moved the resolution:
"This Council recommends to the Government that the local bodies such as Municipalities, District and Local Boards in the Province of Bihar and Orissa be directed by the Government in charge of the Department to spend the income derived from the respective wards or thanas after deducting 10 p.c. of such income for the office establishment and other common expenditure of all the wards or the thanas be spent for the improvement of the same ward or of the same thana."

Digitized by srujanika@gmail.com

of the body — the different parts of the body this little finger even do their service when the heart fails. There are in our municipalities parts which are inhabited by the poor people, by untouchable people, and there you may get an epidemic to begin with. Progress of humanity depends upon the development of corporate existence and the realization of the responsibilities of the individual to a corporate life. Isolated individualism is most detrimental to the growth of corporate life. You have got therefore these sections of the Municipal Act. There are certain sections which define municipal funds. The hon'ble mover (the hon'ble members might have noticed) cited instances where he said that a single member representing a particular ward was not able to get the attention of the ward to the extent that he ought to receive considering the amount of money raised by tax from that particular ward, because members of some other wards perhaps combined and went against him. This is why he says it would be safe to constitute each ward a municipality. The result of this would be that people living in a ward which consists of untouchable residents only will never enjoy the benefits beyond their means. If we carry this principle to its ultimate logical conclusion, where are we landed? We are landed on a state of things when every individual or a number of people living within a certain area must think for themselves. They cannot be responsible as to how their lives affect their neighbours, and yet I suppose we all know it was the conduct of one individual (e.g. the Kaiser) that has affected the world economics. These are the few things which I thought I should throw out as suggestions and I hope they may be of some little use in the discussion of the questions before this House.

97. Resolution: Grievances of Government Press Employees*

The Hon'ble MR. MADHUSUDAN DAS: Sir, I am glad that I was not present in this Chamber during the early part of the

*Ibid, pp. 978-80 (date 30 March 1921).
Md. Yunus moved the resolution that:
"This Council recommends to the Government that a Committee of three non-official elected members and one official be formed to inquire into and report the grievances of the employees of the Government Press at Gulzarbagh and suggest ways and means for redressing the same."

Digitized by srujanika@gmail.com

debate. That part of the debate, which I have heard, had reference to certain incidents which are of a personal character between the Hon'ble Mr. Sifton and the hon'ble mover of the resolution. I am glad that I did not know what the incidents were, but after all they are matters which may be considered matters of personal equation in the discussion of a public matter.

The question before us is one involving the decision of certain questions arising out of the relations between master and servant. It makes no difference as to who the master is. Just now this question — the relation between master and servant — has assumed various forms, and sometimes threatening dimensions. It has shown phases which were unknown in India at least within the last ten years. There has been no doubt, and all of us noticed, experienced and I should say, felt, personally a change in the economic atmosphere of the world, and there has been, as it were, development in the spirit of democracy. All this is admirable, but at the same time you must remember that things may be admirable but the most admirable things in the world can be carried to excesses where they cease to be virtuous. Nothing is held in such high respect and veneration as religion and yet we know what the result of fanatic religious feelings has been. I should respectfully but earnestly — I use the word "earnestly" for this reason that the deliberations of this Council should be directed in such channels as would be useful to the world and serviceable as precedents to ourselves. We know this has been called a House and the House ought to be governed by its precedents. All constitutional Houses have been ruled by precedents and not by statutory law. I have been in Council as long as, perhaps, may be longer than anybody here, or anybody present now in any Council in India, but I have never had the chance of seeing a resolution of this nature moved in any Council. If you will look at the rules, you will find the rules laid down — statutory rules — that a resolution must be a matter of general public interest. What we have been debating about is not a question which would help us in determining in general terms the relations that ought to exist between pressmen, the different classes of men employed in a printing institution and their employers, but we are asked to confine our attention to such men as are employed in a particular press called Gulzarbagh. I have heard resolutions being discussed in Council as to what

Digitized by srujanika@gmail.com

should be the pay of munsifs or deputy magistrates or subordinate judges, because the Council is in a position then to judge as to whether, considering the nature of the work they are required to do as munsifs or subordinate judges, their pay is adequate or not, but if the resolution were in such terms that as a rule pressmen, and I have already said that there are different classes of men engaged in printing presses, there are compositors, there are pressmen, there are proof readers and all classes of men— if it were general terms that different classes of men who are engaged in working a printing press have their grievances on the score of having been paid less than their work ought to be remunerative, that would be a different question. The reason why the Council confine themselves to questions in a particular institution; it might be that some of these men have had their training in that institution. They were, perhaps, trained as compositors, and they, perhaps, got some scholarships. What the circumstances are which determine the particular relations between the employees and the master we cannot possibly undertake to discuss. If the Council were to undertake the discussion of these matters and be the arbitrators of disputes of this character, the Council would enter into duties for which there is no precedent. How can the Council entertain a question of this nature that considering such and such circumstances which are to be found in the surroundings of Gulzarbagh or any other printing press where there is no house accommodation to be had and in consequence of the difficulty of getting house accommodation the pay of such and such men ought to be increased ? If the House were to entertain questions of that nature what would be the result ? The result would be that the House would actually step into the shoes of the immediate superior and employer of those men and no third person can possibly bring about that peaceful harmonious relationship which must exist between the employers and the employees in order that any work may be carried on successfully. Forcing relations upon these two is sure to produce the worst possible results. You cannot make a workman put his heart into his work, you cannot make a master have a kind eye over his servant. You may force the servant to repent, but, perhaps, when a newcomer would come in, he would show a better spirit of loyalty and, perhaps, he would get over the top of the old man who has perhaps been serving so long.

Digitized by srujanika@gmail.com

At the same time, I should respectfully but earnestly ask the Council to bear in mind the character of the times we are living in. We are most anxious to develop industries, and the development of industries must depend upon the harmonious relationship between the working and the labouring classes and their employers. It is very desirable at the outset that our labouring classes should not imbibe the intolerable spirit of the labouring classes of the West. A western labourer can very well demand high prices because he is a skilled workman. The hon'ble gentleman over there has said that he is a little bit of a business man, and I may say that I am also a little bit of a business man.

For the last twenty years I had to deal with labour and the last telegram that I received was that all my workmen had been driven out of my factory.

It cannot be imagined that I am influenced by these considerations. We should develop the industries in our country, and while it should be our endeavour to pay a higher price for the skilled hand, to raise the hand that drives the plough, but at the same time the man whose hands have been raised to a higher level should understand his position that his is but a hand and it must yield to the brain that guides him and to the capital that feeds him. Considering all these circumstances I hope the hon'ble members will not take into account the little unpleasant chapter which was between Mr. Sifton and Mr. Yunus, but look at it as a problem before the Council which was full of important questions, and do all we can to ameliorate their condition, but let us not do anything which may give them the least impression that they can bully their immediate superiors or trifle with the orders of their immediate superiors and show a sort of want of discipline. It has been said that those people have been asked to return to work and if they resume their work, their grievances will be discussed. That is very true. So long as you obey the master the relation between you and your master subsists. Directly you begin to dictate terms to your master, directly there is a reversion of the position, and you have no right to say that as a servant you demand an increase for you have ceased to be a servant.

I do not think I should take the Council's time any more; but let us not decide what an *exparte* version of the case and

Digitized by srujanika@gmail.com

consider it such an extraordinary case that without any precedents in the history of Councils, we should accept a resolution to appoint a committee to inquire into a particular case.

98. Resolution: Room for Muhammadan Prayers*

The Hon'ble MR. MADHUSUDAN DAS: Sir, I have been entrusted with a very unpleasant duty on behalf of the Bihar and Orissa Government to reply to this resolution. I do not know what reasons persuaded my colleagues to select me as their representative on this occasion to reply to a resolution of this nature. But, perhaps, it seems my age and my connection with the various Legislative Councils had something to do with it. An old man certainly appreciates more and puts a far higher value on religion than a young man. Nobody appreciates so much, admires so much, the importance of devout feeling in the members of the Council when they are discussing matters of importance and of interest to the millions in this Province. The very fact that we have amongst us so many Muhammadan brethren who actually want to associate their religious feelings with the deliberations of this Council makes us hope and believe that the deliberations of this Council will always be conducted with a degree of serenity which questions of importance ought always to command.

I have been connected with one Council or another for many years. I may almost say without fear of contradiction, now that my revered friend Mr. Gokhale is no longer among us, that I have at least served in the Council as long as anybody else in India. And I may say without fear of contradiction as well, that I have never heard or seen this question raised in any Council. Of course, the hon'ble mover of this resolution has given expression to a spirit of sweet tolerance of other religious spirits. That is very admirable no doubt, but in a place like this which actually stands on a par with the same sort of institution as the House of Commons, we know that traditions and customs really play a very important part in these matters. I do not like to refer to any sentiments or to give expression to anything

*Ibid, pp. 1051-52 (date 31 March 1921).
Sd. Mubarak Ali moved that " this Council recommends to the Government to take immediate steps to set apart a room in this Council building for Muhammadan prayer."

Digitized by srujanika@gmail.com

that may just bring into the discussion anything which may actually give to the discussion any acuteness and take away the atmosphere, the sacred, solemn, serene atmosphere in which I wish this question to be discussed.

We have naturally amongst us representatives of all religions. If we have not the representatives of all religions on this day, surely we may safely say that there is nothing to prevent our having in this Council Chamber representatives of all religions. We have Brahmanism, we have Hinduism, we have Jainism, we have Muhammadanism, but we have hitherto kept out one *ism* and I am very anxious, and all of us are very anxious, that the worst *ism* should be kept out, and that is schism. So long as we do not introduce schism, religion, every religion, can be considered as most sacred by a believer of another religion. Of course there might be somebody of some other religion who might demand a place for prayer. I am not naming any religion in particular, because I want to avoid anything that may discolour the discussion — give it the colour of schism. You know the House of Commons is most conservative. Christianity has divided itself into sections and denominations, but still it has kept up everything in such a way that there never has been any discussion on this subject. Conservatism is a virtue in these matters. The Council Chamber has been an institution, we are assured, long enough to have its own traditions and customs.

Personally, I feel very great obligations to the Muhammadan community. I am glad I have got this opportunity of giving expression to my sincere gratitude to that community. Several times, when I have stood for election, Muhammadan communities have always voted for me, and I take this opportunity of expressing my gratitude to them; and I should feel very grateful if my Muhammadan brethren who are members of this Council would condescend to accept a very humble offer from me, and that is, that I personally would provide two private tents, which would be set apart for them. They would be prayer tents for the Muhammadan members of this Council. They would be provided with such tents as officers use in the rainy season. These tents would be provided with wooden platforms so that in the rainy weather there might not be wet ground, and every inconvenience whatever would be avoided. I shall be grateful

Digitized by srujanika@gmail.com

if my friends will accept this as a sincere recognition of all the kindness I have received from the community and I hope this would be acceptable to the members of the Council.

99. Resolution: Establishment of Ayurvedic and Tibbi Hospitals*

The Hon'ble MR. MADHUSUDAN DAS: Sir, the resolution which has been read out by the hon'ble member is divided into two parts. The first part deals with the question of district boards and municipalities being permitted to appoint men who are trained under Ayurvedic or Unani system.

The second part of the resolution deals with the establishment of a medical school in the Province. Perhaps it speaks of two schools — one run on the Ayurvedic lines and the other on the Tibbi lines.

I think it would serve our purpose better if I deal with the latter part of the resolution first. Some of the speakers who have preceded me have pointed out that that is the more important part for unless we have schools which turn out men with qualifications to treat patients on the Ayurvedic and Unani systems, we cannot possibly undertake to supply local bodies with such qualified men.

My second reason for taking up the latter part of this resolution first is that this question was discussed in the Council sometime ago during the last session, and the debate on that session threw a flood of light on the various aspects of the question and these are sure to be of great help to us in solving the question.

During the debate which took place in this Council during the last session the Inspector-General of this Province spoke. We have also heard his successor today — Colonel Maddox — who has, so far as my memory goes, reiterated the sentiments of his predecessor in office. I shall just read a portion of what the

*Bihar and Orissa Legislative Council Debates, Vol. II, No. 2, pp. 84-87. On 19 July 1921 this resolution was moved by Nirsu Narayan Sinha. It said that the District Boards and Municipalities be allowed to establish Ayurvedic and Tibbi hospitals within their respective jurisdictions, if they so desire, and that immediate steps be taken to establish a Tibbi and an Ayurvedic School in the Province.

Digitized by srujanika@gmail.com

Inspector-General of Civil Hospitals said on the previous occasion. He said: "I have said enough to prove to this Council that in considering the two systems we must back the one which is of more value. The one recognized by all the countries in the world is the only system to value and your money will be well-spent. You are spending money on the public and it is your duty to see that the money is well and usefully spent." Then he went on to point out that there were provisions under certain statutes and certain rules framed in the department which stood in the way of Government adopting any system of treatment but the allopathic. With regard to this argument I may tell you just as Mr. Arabinda Ghosh has said — I will not hold and I do not think that I shall ever hold in my life that men are made for laws and laws are not made for men. Laws have been made for men, men have not been made for laws and the laws, standing in the way of improvements which are necessary for the well-being of the people must make way for the wishes of the people. If those wishes are legitimate, if they are such as are calculated to improve the condition of the people, if those wishes are such as are within the legitimate demands of a loyal orderly people, I will dispose of that part of the resolution with these words.

Then, I would refer you to the debate in the Council of State. The Council of State debate is a very instructive one. It is instructive to me, at least it has been instructive to me in this sense, that in following that debate I found that the official member, the Hon'ble Sir William Vincent, has given us a sketch of his progressive opinion on the subject. How his opinion has progressed! In 1917 his opinion was the opinion unanimously expressed by the Local Government which was that it is practically impossible to place the indigenous system of medicine on a scientific basis. To ignore the scientific instruments of medicine and surgery and the theories on which they are based is demonstratively unsound, and even if the funds are available for the encouragement of a system which they cannot but regard as unsound would in their opinion be a grave misuse of public revenue.

The Inspector-General of Civil Hospitals, when he spoke during the last session of this Council, reproduced Sir William Vincent's opinion as it was in 1917. Then on the present occasion he

Digitized by srujanika@gmail.com

said "the whole subject is a matter entirely for the Ministers, the powers of interference by the Central Government are extremely limited and they have been rightly and properly so limited. Ministers will have their own ideas on the question of systems. They are entitled if they can secure the support from the local legislature to give full effect to their wishes and I submit to this Council that it is not their business to begin by teaching the Ministers their business". That was his last opinion. It is clear his opinion had undergone a considerable change. It strikes me that the Inspector-General of Civil Hospitals, when speaking here at the last session, was pleased to refer to the opinion of Sir William Vincent as it was in 1917, although he was speaking after this debate in the Council of State and in his speech referred to this debate. He did not think it proper to bring it to the notice of the Council the change in Sir William Vincent's opinion.

The matter as it stands before us is that in the opinion of Sir William Vincent, the Minister has his wishes. It is parhaps very natural for you to expect me to express my wishes, my ideas on the subject. A reference has been made to the personal experience of the eminent members of this Council. I can give ample instances from my own life, but it is not necessary. I know your President here holds a guillotine in his hands and I do not know when that guilliotine would be dropped with the words "your time is up, you must stop". So I do not want to waste your time. What strikes me as peculiar is this: we do not care to take a proper survey of the situation. To tell you the truth, I do not think there is any man who can beat me in bringing back to India the old days of India. I yield to no one in my earnest desire to revive the *kaviraj* of the old time, to introduce the *kaviraj* of the old time in the stage of modern life as a person who did not work for professional gain but rendered his services to the suffering humanity out of sympathy for them. I wish I could restore to life the old *kaviraj*. But the old *kaviraj* has disappeared. The situation changed when the British people came to India and occupied the country. It was natural for them to bring out men who had learnt the system of treatment stated in the British Pharmacopoeia. Thus came the British Pharmacopoeia and the doctor into India. The system as well as the doctor had the patronage of Government, had the financial

Digitized by srujanika@gmail.com

department to support them. Soon after they had all the encouragement that would make them give a good start in a foreign country and I cannot in sufficient terms condemn those who at the time, at that proper time, stood with folded hands, saw their old system decline, deteriorate, languish and reduced to a state of inanition which precedes death.

And now that we have been awakened to a sense of national consciousness, and this awakening of national consciousness has lent a glowing colour to past history paints with colours the imagination. It has taken a hundred years of our national life to lose by our carelessness, by our thoughtlessness, by our indifference what it had cost our ancestors several hundred years to acquire. Now what is my wish? That is the question I am required to answer. The present state of my mind is inconsistent with a definite wish. It is really a clear realization of the difficulties that beset your Minister when he is required to advise. Here we have the allopathic system striking the root of the country, a large part of the country is actually studded with dispensaries and hospitals and only the other day we allotted three lakhs of rupees for the building of new despensaries and hospitals. My friend who has moved the resolution has asked me to give him a dispensary in his village by dispensing with some other dispensaries elsewhere. I have taken the figures for one year. There were then four million people who were treated in these hospitals and dispensaries and 14 lakhs were disbursed. Here are four million people who have received some kind of medical relief from these dispensaries. Shall we close these dispensaries and leave these 4 million people without any available medical help within their reach? I cannot deny that there is a single voice in this House answering in the affirmative to that question. Are we going to do away with the surgery of the British system and spend our money in exhuming the ancient system of India if India ever had a system of surgery?

The Hon'ble MR. MADHUSUDAN DAS: I was just going to show how that was relevant. If you are going to leave British Pharmacopoeia then the first question to decide is what part of the Ayurvedic and Unani systems would you have substituted for the British system. What is to be for instance the curriculum of these students, and who is going to lecture to them? What

Digitized by srujanika@gmail.com

is to be the qualification of students who come for admission? How are they to be taught? The student works in his house. The Kaviraj feeds and clothes him. The Kaviraj prescribes some oil — and it takes one year to prepare one kind of oil. It takes some thing like 12 or 13 years before a student becomes anything like a Kaviraj. These are questions which cannot be decided unless we have competent men to modify the system and to fit it in with the Western system. Therefore what we require is — and all that I can promise my friend now is — that I am willing to concede this that a committee be appointed in order to decide these details, which are the spade-work, and after these details are completed, Government may be in a position to do what is best under the circumstances. You cannot do away altogether with the Western system. You will have to graft the one on to the other. Either graft the West on to the East or the East on to the West. That is got to be settled by competent men. These are my difficulties and beset as I am with these difficulties the hon'ble member will see that I cannot advise anything beyond this. We must have men on this committee who have been trained in both the Western and Eastern systems. I would name one gentleman, Jamini Bhushan Sen who is an M.B. and also a Kaviraj. People of that class ought to be able to advise us on these points. As regards the other part I may mention here that in the Bengal Legislative Council this very resolution was discussed and I had a private correspondence with Sir Surendranath Banerjea before this was discussed as I wanted to know from him what he was going to do. Since then the question has been discussed in the Bengal Council and they too have appointed two committees to advise on what should be done. As regards the other part of the resolution, i.e. to allow district boards and municipalities to open hospitals and dispensaries, Bengal has allowed this. There are rules regarding that and all that I can do under the circumstances is that we should write to the district boards and municipalities and such of them as are willing, to find funds and to undertake the responsibility — they want our permission only — they will be encouraged in their enterprise. But the municipal bodies' money cannot be spent on that account. Of course as I said there are laws and rules in the way but I am not prepared to attach any importance to any rule more than Government attach to this simple rule that men were not made for rules, but that

Digitized by srujanika@gmail.com

rules were made for men. I therefore propose that immediate steps be taken, the first of which is to appoint a committee to investigate and beyond that no further expenditure by the State can be made under the circumstances, and this is all that Government is prepared to do under the circumstances. This is the first step I can take and I hope I have anticipated the hon'ble member's meaning when I say that this is the initial step and that this can be taken immediately.

As regards district boards we shall inquire of them as well as of municipalities to ascertain who are willing, and we shall give them permission subject to such conditions and terms as Government in the Ministry of Local Self-Government think it necessary to ensure a satisfactory working of the system when it is introduced.

The Hon'ble MR. MADHUSUDAN DAS: I said that immediate steps will be taken to appoint a committee.

The Hon'ble MR. MADHUSUDAN DAS: Sir, the committee has just to determine the initial conditions. It can very well explain whether these Ayurvedic and Tibbi systems would include such things as surgery and other parts of the Western system which are very useful, or whether the two systems will overlap in any part or the two systems will be engrafted on one or the other in parts only; secondly it will decide as to how the school is to be conducted, to determine the qualifications necessary for the students, what sort of people would be lecturers and how the Kaviraji system is to be taught. I have pointed out in my speech that the Kaviraji system is altogether a different system which you cannot have and which at least we have not in any college. These have all to be modified and until this is done you cannot have a school. This committee will decide how to modify the Kaviraji and Tibbi systems so that they may be taught in institutions which are known by the word "school" now. To repeat what I have said, I would say that a committee be appointed in order to make such modifications in the existing Kaviraji and Unani systems of treatment so that they can be adjusted with the present Western system and can be made the subject of instructions in institutions which are now known or designated by the term school or college.

Digitized by srujanika@gmail.com

100. Resolution: Medical Education and Epidemic Diseases*

The Hon'ble MR. MADHUSUDAN DAS: Sir, the resolution is a formidable one; I got a number of notes from the different departments strongly opposing the resolution as one which was of no use and was likely to do more harm than good. I have listened carefully to the speech of the mover: he wants something which is very different from what the terms of the resolution indicate. The resolution as it stands, speaks of medical schools, a special medical training for treating diseases of an epidemic nature and for giving sanitary advice to the people in the rural areas. We have two departments, the Medical Department and the Sanitary Department. The first is concerned with the treatment of diseases, the curative methods or measures. The second is concerned with the preventive measures.

The hon'ble mover of the resolution has, I think, very wisely confined his remarks to cholera, though the resolution speaks generally of every ailment. Cholera is the worst epidemic we have here, because its progress is very rapid and before you get notice of the outbreak in villages a large number of people are carried away by death. So, in the treatment of cholera, it is absolutely necessary that in every village we must have some agency, with the means at the command of such agency for disinfecting the water-supply, so that as soon as there is an outbreak of cholera in a village, further spread of the disease may be stopped at once. In fact, if we think of treating the few patients who are attacked with cholera and omit to save the lives of those who are healthy, we should not be doing the proper thing. If it be not possible to make arrangements simultaneously for the curative measure and preventive measure I should certainly give preference to the preventive measure because it is far more desirable to save the lives of healthy people than to attempt to save the lives of two, three or four patients and to expose the lives of the rest of the population,

*Ibid, pp. 134-35.
Resolution was moved by Ganes Datta Singh on 20 July 1921 which said:

That a number of Medical Schools may be started all over the Province for giving elementary and special medical training for treating diseases of an epidemic nature, and for giving sanitary advice to the people in the rural areas, limiting the course of training to a period not exceeding one year.

Digitized by srujanika@gmail.com

who are healthy, to the dangers of the epidemic. I can assure the hon'ble mover that this question has engaged my best attention. I have spent hours and days in anxious thoughts on this subject and the hon'ble mover of the resolution knows this. Though he has been one of my sharpest critics, I am thankful to him, for he has given me information of outbreaks of cholera in different places. However great my difficulties, I appeal to him to say whether I have neglected my duty, shown any carelessness or want of anxiety to save the lives of those men who have been entrusted to my care. But the difficulty is great. We want men on the spot, we want men to give prompt information. I have received telegrams from different parts of the Province and I have just received telegrams which is in reply to my telegram of the other day. This is not the only one that I have received. Somehow or other a change has come over the people, they think that telegrams must be sent to the Minister. At all hours of the day or night whenever I received intelligence of the outbreak of cholera medical help followed.

The hon'ble mover of the resolution has referred to one of these telegrams. The difficulty arises from the fact that you have to deal with between 35 and 40 millions of people, of whom hardly half a million are educated. The whole of the 35 millions have souls and lives which are precious to them, to their relatives and to the country at large, because the lives of men, lives of the whole population are of the highest importance. A healthy population which is able to work and to work on increased wages is the wealth of the country — the highest commercial asset of a nation — these lives ought to be saved. You might have a very good, very sympathetic and very learned Inspector-General of Civil Hospital living in the New Capital, you may have a Civil Surgeon who might be very very civil indeed, but what is it he can do? By the time they receive the news of the outbreak of cholera, half of the village has been carried away. It strikes me I should make an attempt to make the Local Self-Government a reality in the proper sense. We should induce the people of every village to take upon themselves the responsibility of saving themselves, of saving the healthy people from cholera, of saving their neighbours, the villagers from cholera by the adoption of the preventive measures. With a view to this I have addressed a

Digitized by srujanika@gmail.com

number of questions to district boards and municipalities in order to select the particular kind of agency that may help them in the accomplishment of my object. I do not know how far I shall succeed in establishing such an agency, but I do entertain hopes. Though I am a stranger to this part of the Province, during my tour — the last one — I found in my conversation at informal conferences with the members of municipalities and district boards and other gentlemen that there are any number of sympathetic gentlemen who understand their responsibilities in a matter like this, and if a proper selection is made, if we can make a selection in each village of the right type of men to whom this duty is to be entrusted, I have not the least doubt that Local Self-Government (I am emphasizing the word "local") in the true sense will be a real success. I cannot say anything more, but if the hon'ble mover of the resolution wants, what in his speech he has illustrated, I can assure him that I have taken time by the forelock and have adopted the necessary measures. All that I can say is that nothing will be wanting on my part to do whatever is possible for me to do to save the lives of men who are my kith and kin, and this assurance, I hope, will satisfy the hon'ble mover. As the form and the wording of the resolution is somewhat different and may be misunderstood at some future time, I should ask him to consider the advisability of withdrawing this resolution and if he finds me wanting in my duty he may at any time in the winter session of the Council renew his attack with double force.

101. Resolution: Sabour Agricultural College and Agricultural Department*

The Hon'ble MR. MADHUSUDAN DAS: Sir, I did not intend to speak on or about agriculture because I had my experience of agriculture and I have my opinion of agriculture which I

*Ibid, pp. 159-60.

Resolution was moved by Nirsu Narayan Sinha on 21 July 1921. He wanted a Committee of 5 members, 3 non-officials and 2 officials, be formed: (1) to consider the advisability of retaining the Agriculture College at Sabour or the desirability of making such changes in the College as to make it attractive and useful to the people of the Province; further (2) to consider the whole system of Agriculture Department, its machinery and method of work, and suggest such changes as to make the Department useful to the cultivators of the soil.

Digitized by srujanika@gmail.com

have learnt at the cost of several thousands of rupees. I am not going to have anybody's advice which is offered to me for nothing. The Member of the Board of Revenue wishes that the district boards should do this work. I do not like the idea of having an adopted child forced upon them because I shall have to make the management of something of which I have very sad experience. Hon'ble members might remember that when the Government of Bengal undertook to encourage and stimulate agriculture at that time the name Herr Voelcker referred to by the last speaker was brought out. He wrote a book. I dare say many of the hon'ble members have read his book. Its conclusion was that the Indian agriculturist (*chasa*) has brought the art of cultivation to a perfection so far as this country is concerned. It is not possible to make any improvement. Well, I made some experiments just at the time when Government was making them. Government paid scholarships to students and sent them to England. When these students came out they were employed as deputy magistrates, sessions judges. They were sent out to learn cultivation and make agriculture a paying business. They were engaged in hanging men and sending them to jail. Some of my friends might remember Mr. A. C. Sen and Mr. D. L. Ray, who turned out a very good poet. I myself had experiments on about 200 acres of land and before I made experiments I went up straight to the man in charge of the Agricultural Department at Sibpur who was a relation of mine and I asked him to give me his advice. He said: "Don't do these things, they will never pay." Then I said: "I want to make experiments, give me one of your assistants who has the best experience." I got the assistant and I said to the assistant: "I will simply honour your bills. Here is land about 40 acres — choose any land you like".

Let us see what the receipts and disbursements are. I had a young man who had read up to the First Arts, as it was called then, and he selected a piece of land and said that that was good for sugarcane. My *mali* said that sugarcane would never thrive there. However, I allowed him to have the land and he planted about 200 bits of sugarcane, but only three survived. At the end of the year I got the accounts; the expenditure was a little over Rs. 2,000 and the income was about nine rupees and a few annas or eleven rupees.

Digitized by srujanika@gmail.com

I will give you another instance. One of these gentlemen advised me that horn shaving was very good, as its benefits were stated in such and such books. I tried some horn shaving on some land. Of course, in a cold country it takes a long time for horn shaving to become mould because fermentation takes a long time, but here I found that in two months it was as good as mould. I was told to plant paddy there, and it was beautiful. I thought they were going to become bamboo trees and not paddy. But when it was going to flower, the horn shaving produced some peculiar kind of insect which destroyed the paddy on that land and all the paddy on the surrounding land.

One thing I do not understand, and that is why the British Government points out to the Indians the improvement of cultivation and agriculture. As a matter of fact we know India produces more foodgrain than is required. She exports a large quantity of foodgrain and she imports articles or products of industry. The man that drives the plough earns three annas a day, but when he is employed in works of industry he earns three rupees a day. Sensible men sometimes say that it is because Europe wants to have occupations for which wages are high, that the Indians must be kept down to occupations where the wages are low. Do you find the same amount of encouragement from Government in industrial matters? Any amount of praise is bestowed on agriculture, and we are told that India is the country for agriculture. But I know in the nineties when I was travelling in England I saw that along the railway thousands of acres of land were lying waste, while smoke from big factories was going up to heaven. Look at the extent of agriculture that Great Britain had when Queen Victoria ascended the throne, and after sixty years of her reign it fell down to one-quarter. England took up better paying occupations and gave up agriculture, but India must have agriculture so that she might supply foodgrain at a cheap price to foreign countries.

It may be due to my stupidity, and I do not understand these economic principles; but certainly I should like to have a reasonable, intelligible and lucid interpretation of these economic principles. As regards the Agricultural Department being, as it were, fastened upon the district boards, if I have to do anything with district boards, I would certainly ask every district board not to undertake such a responsibility.

Digitized by srujanika@gmail.com

With these remarks I certainly oppose the suggestion that district boards should have anything to do with agriculture.

102. Resolution: Medical Relief in Police Stations Manjhi and Dagmara*

The Hon'ble MR. MADHUSUDAN DAS: Sir, I am glad Mr. Weston has spoken on the subject. I take this opportunity of informing the hon'ble members of this Council that medical relief of any kind is a transferred subject and this transferred department (if I may use the words) has been created to develop self-government. Medical relief has always been a subject which is administered by an act which has been called the Local Self-Government Act. It is remarkable — lamentably remarkable — that sufficient attention is not paid to that little word 'local' which stands at the beginning of the name of the Act. The meaning of local self-government is that the people of the locality should take care of the needs, whether the needs be medical relief or of any other kind, and not only should they take care but realize their responsibility and cheerfully discharge their obligations to the people over whom they have been appointed to govern locally. Self-government has been the cry of India for more than half a century. Self-government seems to have been understood by some members as 'Government by the Minister'. Hon'ble members might have noticed that there are some resolutions which actually say that the Government should direct the district boards and the municipalities to do certain acts. If the Minister in charge of this Department were to issue orders and directions, the result will be that he will soon develop himself to be a despot and take the position of the district magistrate and other local officers who have been condemned for interfering with administration by the people. It should be clearly understood that in order to make the administration of transferred subjects a success, a sense of responsibility should be developed and encouraged in the people of the locality. Unless this is done, the result of such resolutions, as we have now, will be that the Minister of Self-

*Ibid, pp. 271-72.

Bisva Bharan Prasad moved this resolution on 25 July 1921. Manjhi is in the Chhapra Subdivision of Saran district and Dagmara in the Supaul Subdivision of Bhagalpur district.

Digitized by srujanika@gmail.com

Government would soon develop into a despicable despot and I should be really sorry to experience such development.

I spoke to the hon'ble mover of the resolution. I said to him 'your best course would be to influence the district boards'. We certainly cannot ascertain sitting in this Council Chamber, as to what are the wants of a particular locality. The Minister has not an agency at his command through which he could ascertain it, and even if he had such an agency at his command, it would be different from those which are controlled by these local bodies. The result of the employment of two agencies would not be satisfactory and I asked the hon'ble mover to exercise his influence with the local boards and district boards and arrange to have this resolution to be moved by one of its members. They are the proper persons to decide this question. I would beseech, entreat and implore the hon'ble members of this Council not to treat this local self-government as an act which should be administered in this Council Chamber, or in the Secretariat. I may also mention that if this Council were to undertake, to decide here as to whether a dispensary should be established here or there, what will be the result? The result will be that we shall very often, perhaps, sanction or allow a charitable dispensary or a hospital in a place which, perhaps, commends itself to the hon'ble mover, but does not commend itself to the people of the locality. The highest good to the largest number should be kept in view in the decision of these questions.

We cannot possibly supply the whole Province with dispensaries and hospitals so that they might be within 2 or 3 miles or 4 or 5 miles from every village. We have not got the means to do it. During the last budget season, we allotted three lakhs of rupees for building dispensaries and hospitals in certain places. We have been corresponding with the local bodies in order to find out the proper places where these hospitals and dispensaries will have to be located so that they may do the highest good to the largest number of people. The hon'ble members will kindly notice that the mover of the resolution says: 'within one year'.

On previous occasions I informed the hon'ble members of instances where we had State dispensaries which could not be

Digitized by srujanika@gmail.com

worked. There was a building, there was fund available for supplying medicines, but we failed to get properly qualified doctors. It is not within the power of this Council, much less within the power of a Minister, to create doctors in one year. I think the hon'ble mover will kindly pardon me if I tell him that very often these resolutions are moved without the mover of the resolution taking into consideration the difficulties which arise when you set to work — when you try to give effect to the terms of a resolution.

I do not understand what is meant by charitable hospital and dispensary. Is it intended to have a hospital in one place and a dispensary in another place or each of these two places should have arrangements for indoor patients and also arrangements for the treatment of outdoor patients; the distinction, as far as I am aware, between a hospital and a dispensary is that in the former indoor patients are treated; in the latter only outdoor patients are treated.

All that we can do under the circumstances is that we shall inform the district boards concerned that such a resolution has been moved in this Council.

I have got information, which is not necessary for me to produce here, that these places are well served by the existing dispensaries. Mr. Hallett, the Secretary, has very kindly brought to my notice, he has just put into my hand a map showing that one of these places is not far from a place which has a dispensary. The mover has mentioned that in some cases a dispensary is meant to serve an area of 17 miles round it. We have to look at the population, not the distance in miles. Can we possibly provide dispensaries or hospitals throughout the Province within a certain standard area? In those circumstances, I am sorry I cannot accept the resolution and I strongly oppose it because it goes to strike at the root of local self-government. All that I can do is that the district boards concerned will be informed of this resolution having been moved in the Council. More than that I cannot promise.

The Hon'ble MR. MADHUSUDAN DAS: Sir, the hon'ble mover of the resolution has referred to another resolution which was passed this year. That resolution asked for certain hospitals and dispensaries to be placed in each and every police-station.

Digitized by srujanika@gmail.com

I am quoting from memory. But then there was an amendment by Government and that resolution was carried subject to this amendment, that is to say, that every police-station will not be supplied with a dispensary or hospital, but it was open to Government to decide in each case as to whether there should be a dispensary or hospital or there should be a travelling dispensary or whether the existing dispensaries which are maintained by missions or local bodies should be subsidized. A good deal of discretion — margin for discretion — was left, and as I said we have been in correspondence with the district boards with a view to get their advice and their wishes as regards the places they would recommend for starting fresh dispensaries. The hon'ble mover of the resolution wants to make out that in giving effect to that resolution I have gone against the principle which I have enunciated. Not at all. And I can assure the hon'ble mover that in fixing places where these dispensaries and hospitals are to be located, full consideration should be given to the wishes of the district boards, unless the district boards' wishes are such as would conflict with any provision of law and their own bye-laws. The Ministry of Local Self-Government here is a supervising body. Certain obligations, responsibilities and duties are imposed on these local bodies. These have been described in rules, laws and bye-laws most of which have been constructed and framed by the bodies themselves. What the Minister of Local Self-Government proposes to do and what his main duty is that the Minister should see that they are not allowed to depart from the rules and laws which are meant to control their action. It is not for the Minister to tell them what they should do, but just to tell them or to advise them and to help them. If they say that they want money and they want to do this and that, the Ministry of Local Self-Government would then see whether that is a laudable project framed by the district board and whether it could afford to meet the expense of the project. If the financial position of the district board shows that it requires help, certainly then Government would come forward to its help. But no initial debt must be laid on the shoulders of local bodies, or else the local self-government would be a farce. I cannot say anything more than that I shall send this resolution to the district board.

Digitized by srujanika@gmail.com

103. Resolution: Establishment of Charitable Dispensaries in Temporary Houses*

The Hon'ble MR. MADHUSUDAN DAS: Sir, I am very sorry that some remarks of a disparaging character have been made against the district boards generally by one of the hon'ble members who has opened this resolution. I do not consider them incapable of performing this obligation to the society which human nature imposes upon them. There was a time in India when people considered it their duty to help their neighbours, to help those who were entitled to it. We have now the district boards who are the progeny of my nation. The hon'ble member, who spoke so disparagingly of the members of the district boards, at the same time remarked that it was due to the official pressure that had been put upon them, that they could not give some expression to their opinion. I do not know whether this is true or not.

The Hon'ble MR. MADHUSUDAN DAS: I beg pardon of the hon'ble member if I misunderstood him. If the district boards now have only nominated members, we are looking forward to have elected members. I suppose, in the next session, a Bill to amend the Local Self-Government Act will be put before this Council and then you will have an opportunity to provide for elected members to manage these district boards. But at the same time I owe it to some of the members of the district boards and some of the chairmen of the district boards to announce in this Council that I get reports — reports made by Commissioners of Divisions. I have read a report by Divisional Commissioner in which the chairman of a district board was spoken of in terms of praise because he had done his work so well that the Commissioner thought that no Magistrate would ever do it or had ever done it. I have recently received news that the Chairman of the District Board of Cuttack has decided to resign his seat in the Legislative Assembly because it interferes with his duties as the chairman of the district board. With these facts within my knowledge, it is my duty, my sacred

*Ibid, pp. 351-52.
The Resolution was moved by Rev. P. L. Singh on 26 July 1921. He said "where dispensaries were urgently needed the establishment should not wait for construction of a Government building. A house on rent or lending basis should be good enough to start it."

Digitized by srujanika@gmail.com

duty, not to allow any aspersions to be cast upon any member, the meanest member of the district board. I hope the time will come, and come soon, when the new Act is introduced when the present state of things will disappear and people will realize their responsibility to the neighbours, to the nation, and to the public generally.

I hope I have not been misunderstood by the hon'ble members who suggested two amendments. I was prepared to accept the amendment by the use of the word "advise" — but as regards the words "be permitted" I did not accept it simply because "to be permitted" means that in the present state of things there is something to prevent the district boards from doing the work stated in the resolution. Considering that there were certain men of influence and position who did not like, for reasons best known to them, to give expression to their opinion at a public meeting, considering that this is the state of things, considering there is some influence which checks the free expression of an individual's opinion, I think that is a good reason why I should not use any word which would lead the public to believe or the members of the district board to believe that I was anxious to exercise any authority over the boards. I should not feel myself happy if in the discharge of my duties in this office, I actually was driven to the necessity of directing people to do their duty. It is my duty to point out to them what their duty is and I believe — firmly believe — that if the thing is put in a proper light, my countrymen will come forward gladly to do their share of duty.

104. Resolution: Regulation of Bullock Traffic on District Board Roads*

The Hon'ble MR MADHUSUDAN DAS: Sir, on two previous occasions or more than two previous occasions, I strongly objected to the use of the word "direct", because I thought that the use of that word was not calculated to develop a due sense of responsibility in the district boards. I believe, Sir, that if we order any person or a body of men to carry

*Ibid, pp. 593-95.
The resolution was moved by Chaudhary Raghunath Prasad Sinha on 29 July 1921.

Digitized by srujanika@gmail.com

out your orders a proper sense of responsibility is never developed in such a person or class of men. But while I am prepared to concede to local bodies any amount of latitude of discretion in matters of detail, I should be the last person to allow any latitude whatever in matters which amount to an infringement of law or are inconsistent with the representative character of these institutions. I believe, Sir, a good deal of mistake I have come across within these few months (I have come across a number of cases) in dealing with matters connected with the Local Self-Government in which I am inclined to think things were done not on account of any unworthy motives, but on account of a want of proper appreciation of the real position of these local bodies, a want of their responsibility and the true appreciation of the exact connotation of the expression "representative". When a man is a representative, he represents not his wishes, but the wishes of those, the wants of those, the rights of those who elected him as their representative. Very often people when they get a representation in local bodies or even in a Council Chamber seem to lose sight of the fact that as soon as they accept the representative position, their *self* is annihilated. They must fight for the rights of others. That is the beginning of *self-government*. When a man comes in as a representative, first of all he has to govern himself. He must say to himself: "my wish is nothing, my wants are nothing, my demands are nothing, first of all, all that is *mine* must be postponed to what belongs to my electors, my rights must yield to what is within the rights of those whom I represent". It is on account of the want of proper appreciation of this character that very often we find some men, who occupy influential position in society or an influential position which is accorded to them on account of their official position, sometimes enforce their own will and begin to think what they consider right that must be the right thing to do. I am sure these institutions will progress as time advances and people begin to appreciate the real meaning of these terms. There will be a complete cessation of this self assertion and the wishes and demands of the people will assert themselves in a most conspicuous and most prominent manner. I am sorry people do not properly realize the meaning of the term "Local Self-Government". I do really attach a great importance to the

Digitized by srujanika@gmail.com

term and consider that the success of the Local Self-Government depends on a right appreciation of this simple term. Self-Government means governing oneself. We should remember that these members of municipal bodies, members of these district and local boards are creatures of Statutes. Take away the Bengal Municipal Act from the Statute Book — What is a Municipal Commissioner? Nobody understands that word. They take their birth from a Statute and so does a member of the District Board. Now being a child of the Statute, his duty, his obligation and his rights are defined in that Statute. What his rights are, how these rights he can exercise — all these are detailed in the Statute. If he assumes a right which infringes the provisions of the Statute, he commits suicide. He takes a suicidal position. As a Minister of Local Self-Government while I am prepared to give them any latitude of discretion where they do not infringe the law — I am jealous of the law and shall with zeal maintain the provisions of the law. I believe there can be no true freedom except by obeying the law. Disobedience of law is not freedom. Such a definition reminds me of the line of Milton:

"License they mean when they cry for liberty."

It is only by obeying the law that you can freely move. Take the law of gravitation. The law of gravitation governs us all and yet if we do not obey the law and jump about, or if you were to suspend the law for a few minutes, what will be the result? Hon'ble members will not be in their seats; this House will not be a building standing as it is; everything will be flying about; each one of us will be knocking his head against the other. Because there is the law of gravitation to keep each one in his place, we have the freedom of moving as we wish. Remember that it is the cart-driver who is the loser in the circumstances disclosed here: he is the man who produces the wealth of the country; he is the man who pays the zamindar; he is the man who pays everybody. And surely it would be a very inhuman country which fails to recognize the rights of the producer of the wealth of that country. I cannot, in a matter like this, simply direct the district board to do anything because they have neglected their duty; they ought to be taught their duty. Consequently I have very great

Digitized by srujanika@gmail.com

pleasure in accepting Mr. Hallett's amendment that inquiries should be made. Government have sent for the records of the prosecutions of the cart-drivers and it is my intention to go through those records and find out what were the occasions, what were incidents that led to the prosecutions and after I have gone through the records I hope to be in a better position to see my line of action. I may assure the Council that I would spare nothing to remove the grievances not only of the poor bullock driver but of the bullocks too.

(The resolution as amended was put and carried.)

105. Franchise for Women*

The Hon'ble MR. MADHUSUDAN DAS: Sir, I am thankful to Rev. Mr. Whitley for pointing out that a matter like this during the course of discussion should have been associated with language and remarks suited to the solemnity of the subject. It is to be regretted that this was not realized by some of the speakers at least. I took upon it not as a measure which would add anything to the powers of women of the country, but I have read the resolution carefully and every time I have read it my attention was drawn to the word 'disqualification'. It is not a question of conferring certain rights, or of denying the rights to a particular class of persons, but making the sex itself a disqualification and making this disqualification for a sex which has always been called the gentler sex — a sex which is a repository of whatever is loving, tender, affectionate and divine in human nature. Man has only the sterner virtues of humanity, a masculine sternness. Woman is the embodiment of all that is divine, of all that is godly, of all that is loving, and these constitute humanity. Go throughout India and you will find the whole country is studded with temples as the firmament above

*Proceedings of the Bihar and Orissa Legislative Council, 1921, Vol III, No. 1, pp. 80-83.

Devaki Prasad Sinha moved the resolution on 23 November 1921: This Council recommends to the Government

a) that, the sex disqualification for registration on the electoral rolls, prescribed by rule 7 (1) (b) of the Bihar and Orissa Electoral Rolls be removed entirely and that regulations be made providing that women shall not be disqualified for registration in the electoral rolls by reason only of their sex; and

b) that in making provision in such regulations for the manner in which women shall record their votes, due regard shall be had to their habits and customs.

Digitized by srujanika@gmail.com

is studded with stars; go throughout the country, you will find temples, mosques and other places of worship. What do they show? Do they not show that India is *par excellence* religious? The religious element predominates in the Indian nature. Look at the sacrifices that India has made in the cause of religion. If you examine the lives of some of the ascetics you will find object lessons of sacrifice. Why is it that you find they revere Mahatma Gandhi? The only reason for this is his life of sacrifice. Now what better expression or manifestation of sacrifice have we than the mother's sacrifice for her children? Whatever you may say, with whatever voice and strength you may oppose this resolution, there is this fact — that your body, your voice, your tongue with which you speak a word against a woman — these were the gifts of a woman — your mother. She made your body with her blood in her womb. She made the greatest sacrifice that she could make, and therefore you have possession of this body. Every moment of your life, your aspiration, your ambition, your joys, your sorrows, everything you experience, are the history of your life which began in your mother's womb. That is only the living temple — the living temple where God communes with man. In that temple — the mother's womb, God puts the soul into the body which the mother has brought into being with her blood. When I, as a helpless tiny child, was first ushered into this world it was her blood that sustained my life. She taught me to develop the first faculty of human nature. In these days of materialistic education people think that faith is not an intellectual faculty, but faith is as much intellectual as any other faculty. A man lives by faith, and a child after it is born, in the early days of its life, has faith in its mother — the mother teaches him faith. When this body of mine will be left behind and my soul will depart from its earthly tenement to meet its Creator, it will be that faith, which my mother taught me, that will substain me. Comte, the French philosopher, held that humanity is represented by mother, wife and daughter. We have been referred to a history of woman's position in other parts in the world. We have been told of her position in England and other parts of the world; what is the difference between India and the other countries? The history of women in this country in the early period shows that there was progress. Woman did not occupy then the position that she occupies now. In the West woman was placed in a position when it was very

Digitized by srujanika@gmail.com

inferior to man. Man exercised a dominating power over woman. With all possible respect for the English civilization to which I owe many things and a good deal of my present life, I must point out this fact that women in the early days of Anglo-Saxon law were treated like slaves. There is a good deal of law about witchcraft, and women were punished in courts. But compare these with India. My indignation is aroused to see that we hold this sex disqualification applies to India. Before this materialistic education was introduced we had women on the high pedestal of a deity. It is not a case of our not giving a position to women. We are doing them a great wrong by reason of their sex.

Nations are not built in a day. We may start a corporation, you may even have a Council Chamber and have two hundred members to discuss matters but that is not a nation. A nation has its history, and its traditions. Nations cannot be built by artificial means, by requisition or by sending round invitations to people to come and meet at a certain place. You know that India has had a glorious past, but the sun that shone in the firmament of India has gone down. Still I see the lustre of my nation's past glory and I am proud of my nation's past history. Shall I do anything to bring discredit on my proud nation's past history? Shall I do anything to bring discredit on my nation? Shall I say that women behaved themselves so badly that on account of their sex they ought to be disqualified? It is the disqualification which I object to. Burn and destroy the Mahabharata and the Ramayana, if you are going to say that women of India are disqualified. Destroy Mahabharata and destroy Ramayana because without Sita there would be no Ramayana and without Draupadi there would be no Mahabharata. Whatever may be said of the proverbial chivalry of the warlike Rajput nations, was it not due to the women of the Rajput nation? Have we not read of the husband who ran away from the battle-field, how his wife refused to open the door and said, "Go and die in the battle-field. I would weep much rather that you died on the field and I wept as a widow than receive a coward like you as my husband?" When you have instances like that, can anyone be allowed to say that sex is a disqualification? As regards whether women should do this or that work, that is a different thing. Man has been, as I have said,

Digitized by srujanika@gmail.com

influenced by foreign materialistic civilization but the Indian woman has not been influenced by outside influences. She is in the *zanana*. A *zanana* means a treasure-room. Does it not mean that that is the place where the nation has its treasures stored up? She is there and she still retains the pristine glory of the Indian woman. It is for her to decide whether she will take any part in the politics or not. I myself do not think that women necessarily should take to politics and I should be really sorry and it will be a painful and regrettable day in the history of India if Indian women take to such measures to secure their rights as has been taken by some ladies in England. The Indian woman stands on a high platform — on a high pedestal — with the magnificence of a dignified deity. You may do anything, but you still worship Saraswati and you still worship Durga. You have in your language *shakti* which means real power. Woman's influence is very great. Why do you think that the *zanana* is a prison? It is a temple where the ancient virtues of India have been stored. We passed a resolution yesterday to give an enthusiastic welcome to the Prince of Wales. English history has the names of two females, to whose reign England owes a great deal. They are Elizabeth and Victoria. Auspicious occasions like this are associated with acts of clemency. If some people consider the *zanana* a prison, let us release the women from the prison now in connection with the Prince of Wales' visit.

There is another question. I have heard complaints by my countrymen against Englishmen for having withheld our rights from us, should we show a spirit of retaliation to the English women in our province? There are certain English women in Bihar — English women who have property qualifications, there are Parsi women who have education, and you have to decide not for the women in your *zanana*, but you have to decide now whether you will give the right to English women who live here and have property here. It is not a question which concerns only Hindus and Muhammadans. But it a question which concerns English women and Parsi women who are residing in Bihar. Let us not take away their rights, let us not be hostile to the people who are our guests. If there are people here who have no control over their *zanana*, if the discussion has made such people nervous about the conduct of the ladies in the

Digitized by srujanika@gmail.com

zanana, lest they come out of the *zanana* and engage in politics, they should understand their women are not concerned with the present question. The question is, are men going to deprive English women of their right, are men going to deprive Parsi women, are you going to deprive the Indian Christian women? That is the question. You have control over your women and if you have control over your women or if you have trust in your women, if you have your women under control, you could certainly stop them from doing things which you do not like, but what right have you to consider sex a disqualification?

I consider this a stigma on my nation, on my country, that this sex itself should be disqualified. I have a *sati's* blood in my veins and I am not prepared to say that the blood is a stain because it is a woman's blood.

106. Treatment of Political Prisoners*

The Hon'ble MR MADHUSUDAN DAS: Sir, I am not going to deal with or in any way opposing clemency of treatment to political prisoners, co-operators or non-co-operators, but I am concerned with certain arguments put forward here — some of these arguments as put forward by a well-known lawyer. They have created some difficulty in my mind, looking at the question from its purely legal aspects. It is only with regard to that legal aspect that I should like, Sir, to address a few words to the House. Mr. Yunus said that when people are tried under sections other than those which are specifically called State offence sections, they may be treated as if they had been guilty under the sections which do not deal with State offences; they may be tried and sentenced under other sections. That creates a great difficulty in my mind. Is this possible? Is it within the competence of any Court of Law to frame a charge under one section and convict him under another section? Can we in this

*Ibid, pp. 116-17.
Saiyid Abbas Ali moved the resolution on 24 November 1921: to take early steps to treat the political prisoners including non-co-operators as similar prisoners are dealt with in England during their imprisonment and that the facilities in matters of food, clothing, lodging, interviews and communication extended to the European prisoners be given to all such prisoners, pending the final decision as to the arrangements and changes necessary to give to them the treatment extended towards such prisoners in England.

Digitized by srujanika@gmail.com

Council recommend clemency in any form to the law courts? Politics is a thing which should be kept quite outside the atmosphere of the law courts. We are talking of jails. Till a man is inside the jail (I do not know, Sir, what the inside of a jail is, but I was within sight of it expecting at one period of my life to be an inmate) — till a man is inside the jail, the question of how he is to be treated cannot be dealt with by any of those authorities whose action preterms of the law which they have to administer.

Secondly as to what should be done and whether any clemency should be shown to any particular person or not or what should be the nature or character of the clemency to be shown — these should be left to the Executive Government. I say Executive Government because it would not be within my department at any rate. That is a point which I think should be made clear. We are going beyond the legitimate limits of the question which we ought to discuss. The actual question at issue is what should be the treatment of persons who had been sent to jail as political prisoners. I certainly, Sir, would ask you to impress upon this Council the supreme necessity of not allowing the political atmosphere to enter our law courts or to ask the law courts to be influenced in any way by political motives or political objects or side issues which have nothing to do with the legal aspect of the question before them.

107. Resolution: Amalgamation of the Oriya-Speaking Tracts*

The Hon'ble MR. MADHUSUDAN DAS: Sir, in some of the speeches which have been delivered specially by hon'ble members from Orissa my name has been mentioned as one who had associated himself with this movement. The hon'ble Leader of the House and Vice-President of the Executive Council has been pleased to entrust me with the pleasant duty of explaining the position and drawing the attention of the House to the real question at issue. For obvious reasons it is not necessary for me

*Ibid, pp. 186-88.
Resolution was moved by Biswanath Kar on 25 Nov. 1921. "The Council recommends to His Excellency the Governor in Council that they may be pleased to recommend to the Government of India and to the Secretary of State for India that the Oriya speaking tracts existing under the four different Provincial Governments, viz. Bihar and Orissa, Madras, Bengal and the Central Provinces, be united under one Government."

Digitized by srujanika@gmail.com

to ask the Council to travel with me over the ancient history of Orissa. It is sufficient for me to point out only this fact, which must ever be prominent in the mind of every Hindu, that the Jagannath Temple is the temple where the whole Hindu population of India resort to see the great god Jagannath. There is one peculiarity in Jagannath which is not to be found anywhere else. Jagannath is called the Hindu God, but he is generally known in Orissa among the *Pandas* and priests of Orissa as Buddha *Avatar*, as an incarnation, or if I may say so — a deity of the Buddha creed. Buddhism was a religion which did away with caste system and you find an absence of caste rules in Jagannath. There you find a strong affinity between Bihar and Orissa, the like of which is not to be found between any two parts of a province or any two provinces of India. My brethren of Orissa have been pleading before the hon'ble members representing other parts of the Province their cause and telling them how the whole nation has been mutilated, how they have suffered in the past and what their present ambition and earnest desire are. There has been a little misconception with regard to the desire of the Oriya people. The resolution, as I understand, does not admit of any such misconception. The resolution says "that the Oriya-speaking tracts existing under the four different provincial governments, namely Bihar and Orissa, Madras, Bengal and Central Provinces, be united under one Government". The prayer is that all these parts where a portion of the population is Oriya should be placed under one Government. I should specially like, Sir, to invite your attention to the fact that the resolution does not say "under a separate government". No doubt the mover of the resolution had in view the contingency that it might not be possible to have all these parts now under separate governments to be separated from their respective governments and attached to the present Government. Therefore the resolution means this, that such portions of the Oriya-speaking tracts which can be separated and wish to be separated from any of these governments. The very fact that the members from Orissa are asking for the help, co-operation and goodwill of the members representing other parts of this Province shows a desire to be attached to this Province.

The Hon'ble MR. MADHUSUDAN DAS: If that is accepted, I am quite willing to amend it so that it may run "that the Oriya-

Digitized by srujanika@gmail.com

speaking tracts existing under the four different Governments may be conveniently separated from their respective Governments ".

The Hon'ble MR. MADHUSUDAN DAS: That may be the wish of the mover of the resolution, but certainly this is a question of a technical nature. I mean to say here that the question is not to be answered by the mover of the resolution or by the members representing the areas which have been attached to Bihar and Orissa, because it is a question of self-determination and each portion of the Oriya-speaking tracts under the separate governments will have the right to determine for themselves, as to whether they want to be attached or as it were, mixed with the present Orissa which is a part of Bihar and Orissa. We here, neither I, nor the mover of the resolution nor the other members who stand for Orissa, represent the Madras Oriyas, the Central Provinces Oriyas or the Bengal Oriyas. This resolution means here that there is an intense desire on the part of the Oriyas now represented in this Council to have the other parts of the country which are Oriya-speaking tracts, joined to them and form a part of this Province. This question has to be answered not for them by this Council. All that the hon'ble members here can do now is to say that they are anxious to have certain other parts of the Oriya-speaking tracts joined to Orissa proper. The hon'ble members of this Council will please understand that they are required to decide this question whether Orissa proper as represented by members in this Council here will have the sanction and sympathy of the hon'ble members of the Council representing the rest of the Province in their desire. That is the question. It is not for the members of the Council to decide whether the Oriyas in Madras, in the Central Provinces or in Bengal wish to be united or not, because if we demand self-determination we must give other Oriya-speaking tracts the right of self-determination. Will the respective Governments of Bengal, Madras and the Central Provinces decide this question without consulting the Oriya-speaking people in those parts as to whether they want to be joined with Orissa proper or not? What the hon'ble members here have to decide is whether they have sympathy with the aspirations of the members who represent Orissa proper to be united to certain parts of the Oriya-speaking tracts lying in other parts of India. That is the question before us. Whether the hon'ble mover accepts my suggestion or not is altogether

Digitized by srujanika@gmail.com

beside the question, because he only represents a certain part of the Oriya-speaking tracts or Oriya population. I hope the hon'ble members will not dispose of a question of this nature because there is a technical objection, because the mover of the resolution does not see the real question at issue before us. The real fact is that it is not within the competence of this Council to decide as to whether the Madras people want amalgamation or not. The hon'ble members have before them a supplication from the people of Orissa proper who say "we have a desire to be united. Will you give us permission, do you sympathize with our desire?" This Council may adopt this resolution and then the matter will go to the Government of India and as the Hon'ble Leader of the House has said the other Governments concerned will have to be consulted and then the question will either be decided by the Government of India or the matter may have to go to the Secretary of State for decision. We should not be under the impression that we are deciding the question here as to whether the Oriya-speaking people of Madras, Bengal and the Central Provinces should be united.

With these remarks, Sir, I leave the question in the hands of the Council.

108. Legislative Business: The Bihar and Orissa Municipal Bill*

The Hon'ble MR. MADHUSUDAN DAS: Sir, I beg to introduce the Bihar and Orissa Municipal Bill, 1921, and to move that it be referred to a Select Committee consisting of the following members:

1. Mr. Muhammad Yunus
2. Rai Sahib Ram Gopal Singh Chaudhuri
3. Rai Bahadur Dvarika Nath
4. Khan Bahadur Saiyid Muhammad Naim
5. Babu Jyotish Chandra Bhattacharji
6. Babu Rebati Kanta Ghosh
7. Rai Bahadur Radha Gobind Chaudhuri
8. Mr. M. G. Hallett
9. Mr. S. B. Dhavle and
10. The Hon'ble mover

*Ibid, pp. 227-30. Bill was introduced by Madhusudan Das on 28 November 1921.

Digitized by srujanika@gmail.com

It is the practice for the person in charge of a Bill to explain in a speech the objects and reasons of a Bill when introducing it in the Council. These you will find in the Bill before you. This was done by gentlemen who framed the Bill and therefore they were better able to explain the objects and reasons of the Bill. They were published with the Bill in the Gazette.

The Bill is the result of an endeavour to make improvements in the Municipal Act of 1864. The necessity of amendment was felt so long ago as 1895. During this period amendments were suggested which were in keeping with the progressive spirit of the period. The present Reforms were visible in the political horizon when the late Government decided to leave the final decision on their labours to this Reformed Council. The Bill was published in the Gazette of this Province in an issue of 13th July 1921. Early in September a memorandum by the Ministry of Local Self-Government was also published in the Gazette. That Memorandum contains a history of the Bill. That Memorandum also contained some observations by me with regard to certain principles of Local Self-Government which, I thought, deserved the special attention of the hon'ble members and of the public. It also contained a list of the new provisions giving powers to Local Governments, the Divisional Commissioners and the District Magistrates. I thought these lists would be helpful to the hon'ble members in discussiong the provisions of the Bill.

I visited a few towns in this Province and held informal conferences with the local officials, the municipal commissioners, the members of the district boards and other gentlemen interested in the Local Self-Government. My experience at these informal conferences suggested to me the advisability of a conference of the representatives of municipalities who were requested to send delegates to a Conference which met from 7th to 10th November 1921. The results of the deliberations of this Conference have been placed before you. I have no doubt they will be found useful to the hon'ble members.

During the short time the Ministry of Local Self-Government has been in existence, I had opportunities of knowing that the local bodies in this Province differ in their appreciation of the benefits of the Reforms and consequently in their views as regards the importance and value of the official element in the

Digitized by srujanika@gmail.com

constitution of municipal boards. The question was discussed in the Conference and I beg to invite the attention of hon'ble members to the proceedings of the Conference which deal with this question.

The question whether the franchise of Council electors should be extended to women has been the subject of discussion in this House and also outside the House. The question of extension of franchise in matters municipal was discussed in the Conference. The result of the discussion will be found at page 31 of the summary. The attention of the hon'ble members is invited to clause 51 of the Bill which authorizes the commissioners to appoint a woman as a member of a committee. In the discussion of this question the hon'ble members, if they so choose, may discuss the question whether it would be open to the Government to appoint a woman by nomination as a municipal commissioner. At page 27 of the proceedings of the Conference, paragraphs 183 and 184, the hon'ble members will find a discussion on a question raised by me. I suggested that all municipal commissioners whether elected or nominated should show in solemn form their willingness to exercise their powers according to the provisions of the Act as it is passed by the Council. I was responsible for raising this question in the Conference and my views in this connexion have been the subject matter of some adverse criticism in the Press. I invite a discussion on the principle involved and a definite pronouncement of the House on the question, for I believe that it would be a useless waste of time and labour on the part of the hon'ble members of this House in this important work of legislation if it is intended to make it optional with the commissioners either to follow or not the provisions of the Act. A question of some importance has been raised within the last few days. That question is whether the amended Act should provide for separate representation of the interests of the Muhammadan community and the depressed classes in the municipal boards. The demand for such communal representation was not brought to my notice till after the deliberations of the Conference were concluded. This is a question on which the House should come to a decision, if possible, now. This is necessary for obvious reasons. Without it the Select Committee will be to some extent handicapped in their suggestions on several matters connected with the constitution of muni-

Digitized by srujanika@gmail.com

cipal boards. The Bill contemplates changes in the constitution of municipal boards.

I have studiously refrained from giving expression to my views on any provision of the Bill. I think the duty of a Minister in the peculiar condition of this country is first to know the views of the hon'ble members of the Council with regard to the provisions of the Bill. They are the properly constituted authorities on the extent of the responsibilities which the people should be saddled with. It should not be the duty of a Minister to anticipate the views of this Council and form his own views on them. Such a procedure is apt to produce preconceived opinions which do not enhance the value of the Minister's advice. Slight alterations have been made in the Bill since its first publication in the Gazette. The reasons for these are stated in a note by the Secretary which I shall now read out to you:

The Municipal Bill was first published in the Gazette under the orders of His Excellency the Governor in July last and copies of the Bill as it then stood were given to members of the Council during the July Session. The Bill which is now in the hands of members of the Council and which has been republished in a special Gazette, dated November 14th, differs in a few particulars from the Bill as published in July. I may explain to the Council the reasons why these changes were necessary and also what those changes are. Under the Government of India Act certain bills or portions of bills which regulate 'Central' subjects, i.e. subjects which are dealt with by the Government, require the previous sanction of the Government. On the first examination of the Bill it was thought that a bill of this nature which deals with the provincial transferred subject of Local Self-Government did not contain any clauses which would require such sanction. A closer examination revealed that certain sections might require sanction. This was only discovered a short time ago at the beginning of November and it would have not been possible to obtain the requisite sanction for several months and thus considerable delay would have occurred over the discussion of this important measure. Further, the Council will probably shortly have other important Bills to consider such as the revision of the Bengal Tenancy Act, the Village Administration Bill, etc., and it would have imposed an undue strain on members if all these

Digitized by srujanika@gmail.com

measures had come before them during the sessions in the early part of next year when they will also have considerable work to do in connection with the Budget. It was found that the sections which required sanction were not of vital importance to the Bill and it was therefore decided to omit from the Bill any section which required sanction. The Bill as published under His Excellency the Governor's order in the Gazette of November 14th thus differs from the Bill as originally published in July merely in the omission of certain sections or certain amendments to existing sections of the Act. The main sections which have been omitted are those dealing with Corrupt Practices and Election Editions. These would, in any case, have required modification during the discussion on the Bill and in view of this and of the fact that if the elective system is also introduced for district boards, similar provisions will be required in the Local Self-Government Act. Government considered that the most suitable course would be to introduce later a short Bill to deal with corrupt practices at all elections to local bodies and will do so after obtaining the necessary sanction. In certain other sanctions the provisions of the existing Act which had been slightly modified in the original edition have been restored, but it is necessary for me to refer to them in detail.

Section 46 old edition (section 40, new edition) restored to the form of section 366 of the Act.

Section 60 (old edition), section 54 new edition, restored to the form of section 53 of the Act.

Section 89, clause (b) (old edition) (84, new edition), modified.

Section 79, new edition, omitted by mistake in the old edition though referred to in the "Notes on clauses" has been inserted.

Section 114, old edition, has been omitted and also the last part of clause (c) of section 105 (old).

I hope the hon'ble members will accept the procedure we have decided to follow. I am glad to say that Mr. Hallett who has been associated with this Bill for a long time and has been of invaluable help to me is here to give us the benefit of his labours

Digitized by srujanika@gmail.com

in connexion with this Bill, and no less the benefits of his experience as a district officer who was associated with the administration of local bodies.

The Bill now before you is a legacy by the old Government. A legacy brings with it often not only benefits but also responsibilities. In this case the benefit is the power of administration. The exercise of this power might necessitate fresh taxation to ensure successful administration. The Bill has borrowed provisions from the municipal acts of other provinces. It is an advantage to have the experience of other communities as a guide but it is doubtful whether imitation favours evolution. Evolution is the safest road to progress. That is written in large letters in the book of nature. The late Government has bequeathed to every municipal administration in this Province an area which is called the European quarter. This is meant to be an object lesson to us, the recipients of this legacy.

Municipal administration is intended to be in the hands of a representative body called the municipal board. They are the representatives of the people for whose health and life they are responsible. Under the old administration the people were not trained to realize their responsibility in this important subject. The transfer of the subject of Local Self-Government to the people has been sudden in force from 1864. It is remarkable that there is no provision in it specifying the duties of individual municipal commissioners. The result of this omission has been that the people do not know their responsibilities as electors and the elected commissioner does not know the nature of his responsibility when he seeks election and when he enters the municipal board. This is the state of things when the responsibility of public health has been transferred to the people. This Council is now called upon in the exercise of its legislative powers to make provisions for the appointment of the executive. The local bodies are the executive. It is, therefore, necessary for the hon'ble members to realize the difficulties of the municipal commissioners regarding the provisions of the Bill. There was a discussion in the Conference regarding the duties of individual commissioners. I respectfully invite the attention of the Council to paragraphs 165 and 166 of the proceedings of the Conference.

Digitized by srujanika@gmail.com

The population outside the four walls of this House has no idea of the responsibilities of citizenship. We have yet to learn our individual responsibilities in the matter of public health. The people have hitherto been trained to realize their obligations as tax-payers. They have not yet realized, for want of opportunities, their rights to Jurisprudence. It has sometimes been remarked that if the people want immunity from epidemics and other diseases they must pay for it. That is, no doubt, a sound proposition but they require education before we can expect from them a due appreciation of this principle. The people now should be treated as children who are taught the benefits of sanitary measures by their parents. The parents do the sanitary services for the children. It is useless now to expect people to make voluntary payment in the shape of additional taxes for a better state of sanitation in the municipal areas. I think Government ought to contribute liberally to enable the municipal boards to carry out the improvements which the present insanitary condition requires. In the light of these facts this Municipal Bill should be dedicated to the Hon'ble Mr. Le Mesurier who holds the purse of the Province as the patron of public health in Bihar and Orissa, the baby Province which received much attention from him in its infancy.

The Hon'ble MR. MADHUSUDAN DAS: Sir, may I suggest that at this stage, discussion under the rules is to be limited to the general principles? In discussing the general principles, it would be better to have the hon'ble members take it chapter by chapter, say Chapter 3, and then discuss the general principles relating to it and then proceed.

109. Resolution: Development of Mineral Resources*

The Hon'ble MR. MADHUSUDAN DAS: Sir, I did not expect that there would be such a lengthy debate on a resolution of this nature, but the debate has brought to the view of this Council and I have no doubt that it will disclose to the public abroad the

*Ibid, pp. 334-37.
Devaki Narayan Sinha moving the resolution on 30 Nov. 1921 stated: "a Committee consisting of non-officials and officials be appointed to examine the possibilities and methods of the development of mineral resources of this Province, and also to suggest how far the revenues of the Province can be increased by such resources."

Digitized by srujanika@gmail.com

state of things in this Province. The Financial Secretary in his remarks referred to certain resolution which demanded medical schools, charitable dispensaries, hospitals and colleges, but he very justly said that he has not yet had any suggestion from anybody as to the means and ways by which the revenue and income of this Province could be increased. He also said that in their replies to these resolutions the ministers expressed their sympathy. I should refer the Financial Secretary to the words which were uttered by a much greater person than myself who said, "Silver and gold have I none, but of such as I have I give unto these". The Minister has only sympathy to give because the purse is held by somebody else. I can very well sympathize with the Financial Secretary in his embarrassment and difficulty, I can well imagine the difficulty of his position when he is called upon to respond to, or at least to solve a number of resolutions, in other words, to find a solution of these resolutions, but all that I can give him is my sympathy. I sympathize with him in his very difficult and embarrassing position, but at the same time I must tell you, Sir, and through you to this Council, that a minister's position is in no way an enviable one. If wells dry up in any place, at 10 o'clock at night he gets a telegram. If people are being carried away by epidemics, he is required at once to attend to it. If he applies to the Medical Department or the Sanitary Department to get doctors, they say: "No, we have not got any". If he takes the responsibility of sending other doctors — Homoeopathic doctors, the Medical Department says: "We do not recognize them, you must pay out of your pocket", it does not matter how big the holes in his pocket are. We know that peasants are dying in thousands and it is the peasant who fills the purse which the Hon'ble Finance Member holds and therefore they have every right to demand that their wants should be attended to first because they feed everybody. So, Sir, the Minister's position is not a very enviable one. But then, I hope, considering the position of the Minister, the Hon'ble Finance Member and the Financial Secretary will lend something in return for the sympathy they receive from the Minister. I hope I will get some sympathy from them in return. During the debate I noticed a spirit (I withdraw that word) I was led to think there was a policy which I have not been able to understand. At one time in the early days of this Council, I said that I did not approve of the word "House" being applied to the

Digitized by srujanika@gmail.com

Council Chamber. Of course I have since adopted it because everybody else likes it, but I am inclined to believe and to feel that we are adopting the convention and terminology and the spirit and policy of institutions which are not at all similar to this Council. During the discussion of this resolution it has been brought to your notice, Sir (hope I am not mistaken in my interpretation of these remarks, but if I have misunderstood, I hope you will correct me), there is opposition to this resolution because it comes from one of the members of this House who is a non-official elected member. It has been said that if there is necessity for fresh taxation, such a proposal should come from Government. We are being led into an imagination, into a supposition that the members of this House, who are not-official members, form an opposition here. Such a state of things ought not to exist in this institution because the non-official members carried many resolutions in spite of Government opposition. Government should have resigned in these circumstances, but that is not possible. Besides, if there is a government and an opposition bench, what is the position of the Minister? Does he belong to the Government bench or does he belong to the opposition?

The Hon'ble MR. MADHUSUDAN DAS: I occupy a Government bench certainly. I am prepared to make that concession, to accept that position. I think my friend is labouring under a delusion. He will find at some time — though I hope such a time would not come — that I shall be as insistent and as emphatic and as eloquent in my demands for funds for my department as anybody else amongst the non-official men. Certainly I will go further than what they did in the Bengal Legislative Council the other day and demand more than 40 per cent of the total revenue for transferred subjects. Well, my friends are at liberty to call my position anything they like. It is certainly within their power to tell the Minister, as soon as the Budget comes into their hands: "We do not want to sanction your pay." Sir, the real question before us is the resolution which says only that we ought to know the possibilities of developing the revenues of this Province. Whatever may be the feelings of other people, I can assure my friend, Mr. Devaki Prashad, that he has my grateful appreciation of the service he has done to this Province by bringing forward this resolution

Digitized by srujanika@gmail.com

and I do sincerely hope that I am not the only man in this Council who appreciates his services. It has more than once been asserted and affirmed by members of this Council and reiterated by members till the walls of this Chamber have resounded with the words "that this Government is on the verge of insolvency". It was on account of this state of things that a Retrenchment Committee has been appointed. But the Retrenchment Committee however sharp its pruning knife, is required to reduce the expenditure. We have, not only to keep the provincial administration alive, but to provide for the aspirations of the people of a newly-born Province. That is how the question is to be treated. We have new aspirations. We are torn away from another administration devoid of its traditions and denuded of all its advantages. We have, and this is quite natural, that a new Province should have aspirations for a new university and all other institutions. It is not only a question of cutting down the pay of certain people. We seem to forget that we have only a few transferred subjects! Government has its central subjects — the reserved departments; it is not within our power to touch those reserved departments. Some people are under the impression that they can cut down the pay of everybody and turn out everybody and take the rein of the whole Government in their hands. My esteemed friend, Rai Bahadur Dvarika Nath, whom you, Sir, have installed as the *pater familias* of this House...

The Hon'ble MR. MADHUSUDAN DAS: He may claim it, but if he prizes the policy or principle of curtailment or retrenchment (he has grown grey in his experience — no, Sir, he has grown bald in his experience of this Council) he will find if he wants to reduce the volume of his physique, by fasting, I do not think that will give much chance to the tailor to make his coat much smaller because there is a substratum of bones. There you have a substratum of the central subject and you cannot reduce it much. There are possibilities of the development of the mineral resources. We find that one of the mineral resources is not only a possibility, but actually one of these resources (coal), which has been brought out of the hidden treasures which contain Nature's endowment to the people of this Province, is benefiting millions of people. This coal was referred to as an illustration in the course of the debate (it is not in the words of the resolution). In the course of the debate he, the mover, said

Digitized by srujanika@gmail.com

this may be taken as an illustration and that reference to coal has been objected to. We have been referred to all principles of economy. I have been reminded of principles of economy of my school days when I listened to my Professor of Economics. We were told people are consumers of coal, they are not actually in need of coal. As a matter of fact I find that coal is also used in factories where they make a poisonous oil which gives the people cholera. Do these people deserve sympathy? I should say they are not consumers of coal but killers of men. We find, Sir, there is a voice hailing from Calcutta which has been emphatically and loudly raised on the grounds of economic principles. I find there are very heavy lorries which carry coal from the mines in this Province to Calcutta and the result has been that they have been running these lorries over bridges which belong to this Province and have to be maintained by this Province. We complained that these bridges would not stand the weight of these lorries. We issued a notice: "Do not run lorries over this bridge"; we posted men to stop them carrying coal by lorries, and now when the bridge has been damaged we have to face an expenditure of rupees six lakhs. The Government of Bengal and the merchants of Calcutta were approached and they said they would not pay anything. Is there any more justification for retailiation necessary? Any more retaliation that we ought to fear? This Province has to provide rupees six lakhs over a bridge for persons who carry coal out of our Province and pay us nothing. Sir, the time will come when we shall have to develop our industries. I do not hesitate to give a most emphatic expression to my belief that unless you can raise the value of the hands of the inhabitants of this Province and also of their eyes, we can never make them a flourishing and prosperous nation. We have minerals which are likely to yield and bound to yield a revenue. This additional revenue we can apply, as it were profitably, by giving currency to other minerals which are lying buried and producing inanition, injury and death to the Province. I submit would it be wise, Sir, to allow to run the milk of a milch cow waste and to go in search of food for the calf? Would it not be wiser to see where a duty is leviable and to utilize the income from existing resources to build other industries? I do hope that the policy will not take root in this House—the policy of opposing everything which comes from a non-official member. There ought to be a spirit of co-operation between

Digitized by srujanika@gmail.com

officials and non-officials. Hitherto Government ruled *for* the people. They are prepared now to rule the country *with* the people. That makes the whole difference. Hitherto we were told by Government: "We must do what we think is best for you". We are not required to accept that position now. We must decide what is good for us and Government ought to help us in that. They have expressed their willingness to help us. Here a resolution comes from a non-official member and Government stretch out the right hand to help, but there is opposition because it comes from a non-official member. Are we here to put our shoulders to the wheel or to oppose a suggestion because it comes from this man or that man? I hope and respectfully beseech and entreat hon'ble members not to consider a proposal bad or injurious because it comes from this source or that source but to examine every proposal and every submission with due regard to its merits as to whether it will advance the interests of the country. If it advances the interests of the country it does not matter if the proposal comes from my bitterest enemy.

110. The Bihar and Orissa Municipal Bill*

The Hon'ble MR. MADHUSUDAN DAS: Sir, the debate has been long and exhaustive, and instructive at least to me. There seems to be an impression that the Bill now before the Council is one that was drafted by me and that I was intimately connected with the Bill. There was a Memorandum published in which the history of the Bill was given. Mr. Hammond, when he made his speech here, gave the history of the Bill. The Bill contains (I am referring to the first one that was published in July) the result of the mature deliberations and repeated consideration of men of talent, experience and ability, whose labours anybody should respect. Accordingly, being a newcomer I did not like to interfere with it. Besides that, before this Government — the Reformed Government — came into existence, the Bill had been completed by the late Government. The late Government consulted the non-official members of the then Legislative Council, and the non-official members of the Legislative

*Ibid, pp. 391-94. He spoke on 1 December 1921 at the end of the debate.

Digitized by srujanika@gmail.com

Council of the time thought and decided that the Bill should not be taken up by the late Council, but should be left to the present Council to decide as to what changes, if any, they should make. I thought it proper to draw the attention of the public generally and the hon'ble members of this Council to certain cardinal principles which cardinal principles were suggested to me on account of local self-government having been made a transferred subject. I did not express any opinion of my own, but in making these suggestions I expected that the hon'ble members of the Council and the public generally would think over the matter, and it was my intention also to give the hon'ble members of this Council an opportunity and sufficient time to think over these matters so that when they assembled, this Council would have the result of their mature deliberations and consultations between each other. There has been some misconception for which I may be responsible. If I am responsible to any extent, I should ask you, Sir, and through you the hon'ble members, to excuse me. There have been two Bills in the hands of hon'ble members, and some people, judging from their speeches, have got an impression that the last one was the Bill for which the Minister was responsible and the responsibility of the first one lay with somebody else, because my hon'ble friend, Babu Ganesh Datta Singh, said that comparing the two Bills he found that one is a copy of the other with certain pen-slips. When introducing this Bill into Council I especially referred to it and I read out to the hon'ble members a note given to me by my hon'ble friend Mr. Hallett, which explained the difference between the two Bills and that difference was due to the fact that we discovered at a late stage that certain clauses which under the relation of this Provincial Legislative Council with the Government of India required that Government's sanction. There were about 4 or 5 of them and the discussion in the Council throughout this time has not referred to any of them. They do not refer to any of the cardinal principles which have been the subject matter of discussion in this Council. Certainly it might be said that it was my duty to see that this should have been done in time. But I took it for granted, which I should not have done, that in the first Bill these steps had not been made. However, I take the whole blame on myself and I hope that hon'ble members will kindly excuse me for it.

Digitized by srujanika@gmail.com

As regards the remarks that have been made about my calling a Conference, I tried in the best way I could to know the feelings of the people. Now, when I am using that word "feelings", I am using it for want of a better word to express my idea. I give an extensive connotation to that word. What is the state of things now as compared to what it was before Local Self-Government was made a transferred subject? The change means that the responsibility of the administration has been shifted to the shoulders of the people themselves. Consequently the first thing that I thought necessary for me to know was what the people wanted, what share of the responsibility they were prepared to shoulder. Have they the means to discharge these responsibilities? For it is possible that they might without giving sufficient thought to the subject undertake to discharge those responsibilities and therefore I thought it proper to go round and visit the people, holding informal conference with them, and then, after that, I thought that I should be "guided" —I am using the word purposely instead of "having their opinion"— by those of my countrymen, who are now running the machinery of municipal administration so that I might gauge the political atmosphere which the new Reforms have brought about. These people have an awakening of their national consciousness. They have been, in circumstances where they would be, the best judges as to how far the existing law was a help to them or an impediment in the administration of the municipalities and an obstacle to the realization of their aspirations and ambitions. This was my object in calling this Conference. The main object of all this was that I should give the hon'ble members of the Council an opportunity to know what the people outside these walls thought, and it is my intention now to place before the Select Committee the deliberations of the Conference, the opinions I have got from other sources and especially the debate in this Council and leave them to decide how to frame, change, modify, alter, add or subtract from the Bill that has been handed down to us, as I said the other day, as a legacy from the late Government. I said also in my speech that I have kept my mind altogether open and have not actually formed any dogmatic opinion; for my principle is "don't saddle the people with a heavier burden than they can bear". Besides that, all the municipalities in this Province are not prepared for the same share of responsibility. Circumstances are

Digitized by srujanika@gmail.com

different; the mentality of the people is different; the means at the command of the people are different. All these things have to be taken into consideration in giving this Bill a final shape. I shall especially ask you, Sir, and through you the hon'ble members of this Council, that after the deliberations of the Select Committee have been embodied in the shape of recommendations, this Bill will come again before this Council and it will be then time for the hon'ble members to decide whether my labours have been an improvement or otherwise on the old system of legislation. According to the old system of procedure that was followed, you have, Sir, experience that the Member in charge introduced a Bill and it was placed on the seat of each member half an hour before the Council met, and often when the Council sat members got up and said that they could not discuss the general principles of the Bill because they had been given only half an hour's time. If I erred in not following that practice it was done that I might give this Council a longer time. If that is an error, as some people have said it was, I am sorry for having adopted such a course and so far as those critics are concerned they will excuse me but I do hope that the majority of the hon'ble members of this Council do not think that I have erred in giving them a longer time. My esteemed friend the hon'ble Rai Bahadur Dvarika Nath has referred to certain sections. I do not think that I should go into a detailed discussion, for if he read the sections carefully he would find that they were not big with such drastic results as he fears; at any rate he will be in the Select Committee and he will have every opportunity to help us with his suggestions, counsel, advice and criticism. There is one thing that I should say and that is that my esteemed friend will kindly remember the meeting at Muzaffarpur where he was present.

The Hon'ble MR. MADHUSUDAN DAS: It might be within the knowledge of the hon'ble Rai Bahadur Dvarika Nath that there are men who are of the opinion that an official should not be made ineligible for chairmanship. I presume that is within his knowledge as it is within my knowledge. So it is a very difficult thing for a Minister to anticipate what the voice of the country will be, or what the final decision of this Council will be.

I do not think I should detain this Council any more. I think I have sufficiently explained to the hon'ble members that

Digitized by srujanika@gmail.com

they will have an opportunity of criticizing the Bill through their representatives in Council; because what is a Select Committee after all? It is a committee appointed by this Council and therefore, the opinion of the committee represents the Council's opinion. Not only that, they are not bound by the decision of the Select Committee. The decision of the Select Committee will come again before them and they will have an opportunity of discussing it, and I can assure you, Sir, and through you the hon'ble members, that nothing will be wanting on the part of the Minister of Local Self-Government to transfer to the people the full share of responsibility of municipal administration or local self-government administration should they only express the desire to undertake the responsibility and convince this Council that they are in a position satisfactorily to discharge the responsibility which they wish to be transferred to them.

The Hon'ble MR. MADHUSUDAN DAS: I accept all the amendments.

The amendments were put and carried.

111. Type Plans for Charitable Outdoor Dispensaries*

The Hon'ble MR. MADHUSUDAN DAS: Sir, the hon'ble mover of the resolution is quite right in reminding the house that last year the question in connection with dispensaries to be maintained and constructed by the district boards was discussed by two resolutions, and in both those resolutions I tried my best to make it as clear as possible that it was not at all the intention of Government to fetter the discretion of local bodies as regards the arrangement they might make for medical relief suited and adapted to the local requirements. Government issued a letter on the 11th May 1921. This letter was addressed to all Commissioners of Divisions, and in paragraph 8 of that letter I find

*Proceedings of the Legislative Council of the Governor of Bihar and Orissa 1922 (24-1-1922 to 4-4-1922), pp. 276-78.

On 27-1-1922 Pitabas Patnaik moved the resolution that "this Council recommends to the Government to direct the Inspector General of Civil Hospitals not to enforce type plans with reference to the opening of charitable outdoor dispensaries by the District Boards and Municipalities of the Province".

Digitized by srujanika@gmail.com

these words: "The Local Government do not wish to fetter the discretion of district boards, who are in the best position to know what form of medical relief is best adapted to their districts, but that the suggestions made below may be helpful to them". And the suggestions contained in paragraph 9 refer to six type plans. Paragraph 9, clause (b), speaks of itinerant dispensaries and says that it will be open to the local bodies to subsidize local doctors.

It may be that in some places local bodies may find a practising doctor, and perhaps it would be cheaper and more efficient, in consequence of the doctor having a practice, and the influence and experience gained by practice, for the local body to subsidize the man and get his services at stated hours in the day. Not only that, but in a subsequent letter which was issued on the 5th August, the local bodies were given permission to use rented houses at first, or even houses which were placed at their disposal for the purpose by the generous public, till they were in a position to decide about the site of the dispensaries where they would make permanent arrangements for the supply of medical relief. In fact, I am distinctly of opinion that first of all attempts should be made to enlist the sympathy of all the public, and I am sure you will find that in many villages there are gentlemen willing to place their houses at the disposal of the district boards to be used temporarily as dispensaries. It is desirable that the district boards should have the sympathy of some of the leading men of the public, and that they should get a chance of knowing whether the place is suited, or the site is such as would be convenient for the suffering people of the locality.

The advantage of having dispensaries in a rented house or in a house lent is that you gain experience as to whether a particular place is suitable, is most attractive and is most convenient to the people of the place, and then by making these experiments you will be in a position to determine the place where a permanent dispensary ought to be started or established. But at the same time I must tell the hon'ble mover that when the district board approve a site for a permanent dispensary, they should consult some man. In this case the Inspector-General of Civil Hospitals would be the best man to consult as regards the plan of the house.

Digitized by srujanika@gmail.com

The type plans sent are meant only to be what they mean really "type plan", that is to say, they are meant to give the district board an idea of the arrangements and the accommodation of a dispensary. A dispensary is not a private house, and the arrangement and the accommodation necessary in a dispensary are very different from the accommodation of a private house. You have to take into consideration whether the site is a healthy site, whether there is sufficient ventilation, whether there is a room for surgical operations, whether there is place enough where you can have poisonous drugs kept away from access to the public. All these matters have to be taken into consideration, and all these matters ought to be decided. But above all, there is one consideration which should have great weight attached to it, and that is that when you are building a dispensary of a smaller size you should always bear in mind the possibility, or rather the likelihood of enlarging or extending it. The dispensary may be for outdoor patients only if the district board find that the funds at their disposal do not permit them to build a hospital. But at the same time this initial dispensary should have a plan so that it can be expanded if it is found necessary to develop it into a decent hospital.

In these matters it is necessary to have the opinion of the Inspector-General of Civil Hospitals. It is not at all necessary, and I would request the hon'ble member to take my words, it is not at all necessary that a particular plan that has been forwarded by the Inspector-General of Civil Hospitals should be followed. But the kind of accommodation required should be provided for in the interests of the people who will come there for treatment. And not only that, but it is in the interests of the district boards that they do not expose themselves to criticism by building a structure which does not serve the purpose for which it is intended. Therefore, I say that the Inspector-General of Civil Hospitals should have an opportunity of seeing the plan. That is necessary. And I am sure that if for financial or other reasons the district board do not think it proper to adopt the type plan, the Inspector-General of Civil Hospitals would make such suggestions as would make the plan submitted by them a real dispensary, worth the name, and having the necessary accommodation for the purpose for which it is intended. It should be borne in mind that district boards now having

Digitized by srujanika@gmail.com

small dispensaries may in the future require to develop them, for we should not forget that ultimately the responsibility of public health should devolve upon these local bodies.

I hope these remarks will satisfy the hon'ble mover of the resolution. I think that the resolution is the result of a misunderstanding of the direction of the Inspector-General of Civil Hospitals, and I am sure that he did not mean to say that you must adopt these plans. All that is meant is that the accommodation and the arrangement of the dispensary should be such as would meet the demands of sanitation.

112. Pioneer Sugar Factory in Bihar*

The Hon'ble MR. MADHUSUDAN DAS: Sir, I do not possess sufficient information to pronounce an opinion as to whether this undertaking would be a financial success or not. But certain members have enunciated here a principle to which reference was made by the hon'ble member who spoke last that the principle is that Government money should not be spent in gambling. That is an opinion which I have heard for many many years. When Government is charged of gambling or encouraging gambling in matters like the one before us people seem to lose sight of the fact that India stands in a peculiar position and its relation with a foreign Government is extremely delicate. I have always held the opinion, and I am not at all afraid to give a most emphatic expression to that opinion, that the British Government has not done its duty to India in the matter of industrial development. The fact is that when India came in contract with, or rather under the rule of a nation far advanced in industrial development she had to go to the wall for the reason that her previous old methods of producing industrial products could not compete with the improved methods and with the machinery of the West. Here we had the individual as the unit of every industrial enterprise; in the West people understood the value of division of labour, and it was by introducing that principle of division of labour that they were able to give finish and

*Ibid, pp. 335-36.
On 30 January 1922 John Austin Hubback moved:
"The Council recommends that the Government establish a Sugar Factory in South Bihar as a pioneer factory."

Digitized by srujanika@gmail.com

secure cheapness to their industrial products. Division of labour afterwards led to the invention of machinery, and instead of one man doing a thing there stood the cast iron man who could do the work of two hundred men. But he has to be trained to that particular kind of work and to handle these machines which require peculiar training and skill. It was the machine that killed India and its hand industry. I believe that Government is bound to look upon industrial development as a part of people's education. They have killed the industry of India by introducing a different type of civilization, and they are as much bound to help in the development of industry and take the same interest that they are taking in introducing their literature, their philosophy and their principles of administration into this country. I have always held, and though I am in this office now, I do not hesitate to give an emphatic expression to my opinion that this a most important duty on the part of Government. We must raise the value of the labourer's hand. The hands which are now earning only two and three annas a day can earn three rupees. You can raise the value of the hand if you introduce the hand into a factory, and the same man will earn Rs. 3 a day and we shall not then be in a position such as we are now discussing how we can raise a little money by new methods of taxation. I am glad, and I congratulate Government, for having at last, though very late, realized the duty and felt the necessity of educating the people in industry. This, Sir, I do not call gambling. Was it gambling when Government started schools and colleges? Was it gambling when Government introduced any system of administration into the country and spent lots of money in educating the people without knowing whether those people would be really proper persons to help Government in their administrative work? Is it gambling to give scholarships to people and send them out to England to learn science not knowing what the man would prove. That man on his return might prove to be a perfect non-co-operator. If the Government really fails to make the business a successful financial affair, if it does not yield a proper dividend, it should be the duty of Government to make it a success. Change the management, change the scheme of management, change everything that is necessary till it proves a successful venture, and then you have actually given an education to all the people around you. The joint stock company, Sir, is a new thing in India. It is all very

Digitized by srujanika@gmail.com

well for our rulers to come into this country and say, we must start your business in joint stock companies. They lose sight of the fact that joint stock company could not possibly have grown up or developed in a country where there was a caste system and where people lived in compartments. Here a single Marwari carries on business to the extent of crores of rupees and our experience during the last 25 years or so has been that whenever joint stock companies were started by our countrymen they failed. People would not hesitate to lend a man lakhs and crores but they would not invest their money in a joint stock company simply because it is a new thing altogether. I believe, Sir, it is the bounden duty of Government to help the educated people to appreciate the advantages of joint stock companies, and this they can only do by starting industries of their own. After it has proved a success it should not be the duty of Government to make it a further source of revenue but it should be the duty of Government to make it a limited company and sell the shares to the public. They can very well say, 'here is a concern, we have made it a success, you take the business and relieve Government. I am sure that Government will make a profit. With these remarks, Sir, I not only support the measures but I congratulate Government for having started this scheme.

113. The Bihar and Orissa Village Administration Bill*

The Hon'ble MR. MADHUSUDAN DAS: Sir, the Hon'ble Mr. McPherson being in charge of the Bill I did not think it necessary to speak, but after listening to certain remarks which have fallen during the course of the debate, I think it is proper that I should make a few observations. All observations at this stage of the Bill must be confined to a discussion only of the principles of the Bill. The reason I suppose for such a rule, the *rationale* of the rule is that the Select Committee who have been appointed may know the trend of public opinion and benefit themselves

*Ibid, pp. 365-66.
On 30 January 1922 H. McPherson moving the resolution said that its object was to make small self-contained village organizations elected by the villagers themselves from among their own number, entrusted with powers to decide petty cases both civil and criminal and with the duty of improving the conditions of the village community and of taking their share in the working of the Chaukidari system.

Digitized by srujanika@gmail.com

as members of the Select Committee by the deliberations and views expressed by the members of this council. It has been said that it was unseemly that this Bill should have been introduced by a Member of the Executive Council, some hon'ble members think it should have been introduced by the Minister in charge of Local Self-Government. I wish to impress upon this Council and ask the hon'ble member to bear in mind that the constitution of the Government is a Dyarchy, which has been called a very delicate instrument. I think there is ample reason to congratulate the executive side of the Government for having introduced this Bill, at this time, for what is this Bill after all: Is it not an attempt really to hand over some portion of the administration of the country — a portion which was hitherto in the hands of what is called the bureaucracy — to the hands of the people? The provisions of the Bill throughout show a change of hands in holding the reins of administration. There is also enough evidence outside this Council Chamber that the people are anxious to have Swaraj, a word which has been used in two different senses. That very word has been used by His Majesty the King-Emperor when he promised Swaraj to India and it has been used in another sense which I cannot define, by some other people. But whatever be the difference in meaning, the simple prefix is "Swa" which means self. Whoever will be the ultimate authority to whom the people are responsible there is part in this particular system of administration in which self forms a prominent and important factor. That is to say that people have to do something for themselves. We all look forward to it and have been trying for years, and I have done my share in the country's attempt to get responsible Government. We do not wish for anything more. Nobody wishes to have a form of Government which can be characterized as irresponsible. Irresponsible Government really means, or rather would naturally mean a government that was not responsible. Now you can never imagine a good Government that is not responsible to any one that would be a despotic Government. God alone in this universe is not responsible to anybody. Every other creature in this world must be responsible in order to justify his existence in this creation. The question is where this responsibility rests. We understand responsible Government in the ordinary sense in which it is used. Now we have a form of Government in which responsibility rests with the people themselves, and this will pro-

Digitized by srujanika@gmail.com

vide for that. Take charge of the department and manage it yourself. At this stage of the Bill you can only say, whether the principle is right or not. If the machine which I am asking you to drive is not in order, that is for the Select Committee to put right. All that is required now is to discuss whether this proposed transfer of responsibility from another class of people to the people themselves is the sound principle which we all cry for. That is the real question before us. Taxation is a horrible thing. Many of the speakers have referred to taxation. I should say that the very fact that the Executive Government has undertaken to introduce this Bill shows that they are anxious to co-operate with the people. The very fact that this Bill has been introduced by the Executive Government is a good and auspicious sign, a sign of healthy and harmonious co-operation between the people and Government and if this goes on for some time and the results are satisfactory I am sure that this difference of reserved and transferred departments will disappear of itself without any violent change. Taxation has been referred to. Unfortunately that word has been introduced into legal phraseology, by those who have drafted the Bill — men of a class of whom my friend the Secretary is one — they are very rigid, conservatives. Anything that has any *zid* in it comes from them. They are rigid and will not change a word. It may be 'taxation' in the drafting but to the man who pays it may be voluntary contribution which he pays with a happy, voluntary attitude of mind. These institutions, I believe, can be managed in such a way that the money that is paid towards these funds will not be felt as a taxation but will be paid as a voluntary contribution. I do not believe that the people in India have a cast-iron mind, they are not insensible to the benefits they receive from a popular system of administration. We find that the people are so anxious to have a better system of administration that on the mere promise of having an Utopian form of Government a crore of rupees has been paid not as taxation but as a voluntary contribution. Can you have any better evidence of the readiness of the people to pay for the thing which they wish to have? It will depend upon the Union Boards how they can fathom or read aright the feelings of the people. That will depend upon their ability. The time has come when the people should learn self-sacrifice and in the matter of election, bear in mind particularly that we want people who have given a portion of their

Digitized by srujanika@gmail.com

time and money to the service of the country. If you bear in mind this test, in the election if the people use this as a test for the selection of the men who are to represent their interest, there will be no trouble.

I do not think I should say any thing further. The Bill has been referred to a Select Committee. I find that there are very eminent men of the Council who are on the Select Committee, I have no doubt that they will go through carefully all the provisions which are likely to prove beneficial to the people and that when the Bill emerges from the Select Committee it will come out as an angel.

114. Representation of Depressed Class*

The Hon'ble MR. MADHUSUDAN DAS: Sir, certain thoughts have crossed my mind which I must confess I have not been able to characterize, qualify or classify. I have read, and what I did read was a correct account because it has been corroborated to me by persons who were either eye witnesses or ear witnesses, that Mahatma Gandhi made it an important part of his creed that the untouchable classes should be merged in the higher classes. Untouchability as a boundary line between man and man should be removed. Very little attention has been paid to that part of Mahatma's creed and almost nothing has been done in that direction. But I feel, and feel with pride, that in this Council Chamber where we are trying to attain His Majesty's *swaraj*, we are carrying out the creed of the non-co-operator with enthusiasm and unanimity. I do not see any reason whatever why, because a man follows a certain occupation, he should be robbed of those advantages and those privileges which God conferred on humanity and which law has conferred upon every citizen. I suppose this idea had its origin in human pride — I do not like to call it caste system or this system or that system — all those ideas which distinguish between man and man on some flimsy ground are really derived from human pride. Man has always divided class from class by conferring upon himself, if

*Ibid, pp. 430-33.
On 31 January 1922 Ganes Datta Singh moved:
"The Council recommends that in all Boards and Municipalities the Government be pleased to nominate a member to represent the depressed classes."

Digitized by srujanika@gmail.com

he is in a superior position, some mark of superiority, whether it is a sacred thread or whether it points to the colour of the skin, or whether it is a particular position in life or it is the possession of learning or education. All throughout the history of the world you will find that there is an attempt by man to efface from humanity the stamp of divinity which it received when man was created first, when the babe child is born. The hon'ble mover of the resolution referred to an incident which he said had made such a deep impression on his mind that he could recall the incident at any time. I do not know how to communicate my sense of respect and admiration for the hon'ble mover of this resolution, because I know he is a Hindu of Hindus. He ought to be an object lesson to all who take their stand on pride of superior caste. They ought to see that Hinduism is not inconsistent with the recognition of humanity in certain classes. There was a time when a certain section of the Hindus considered the Europeans untouchables. I remember an instance when a Raja shook hands with a Lieutenant-Governor and when he returned home he had to bathe and sanctify himself in several ways. I heard from a High Court Judge that when he was a junior joint Magistrate in one of the districts of Bengal he had a Pandit who used to come and teach him Bengali. Every morning when the Pandit came he made a *salam* and when he left he made a *salam*. One day the Englishman asked him, "Well, my dear Pandit, you call me a *mlecha*, an 'untouchable', why do you make a *salam*?" The Pandit said, "Sir, don't ask me that question". "No", said the Magistrate, "I must have a reply". The Pandit said, "Then you will have to pardon me for my impertinence; I never made a *salam* to you". The magistrate said, "How is that, you did it every day". The Pandit said, "Sir, it is not a *salam* but it is striking my head to show my bad luck".

Perhaps some people here may know that there was a man — I will not name the office he held neither will I name the man but he was well-known in Calcutta. He was given an appointment as a copyist by the *bara sahib* because his father had done some service in the *bara sahib's* house, but the clerks in the office would not allow him to get into the office. But he had a mighty soul in him; young as he was, he was determined to rise. He had to sit in the verandah and no one would allow him to buy

Digitized by srujanika@gmail.com

any sweetmeat from the man who brought sweetmeat to the office and the poor young man used to go to the Lal Dighi and drink water there. But he was there and I knew him personally and I asked him to dine with me. He told me that he never left any portion of his work undone even if he had to be in office till midnight. He finished his work and never gave any one a chance of finding fault with his work and he never asked anybody for help. When he got Rs. 200 the people in the office asked him to go inside. When he got Rs. 500 and had some posts at his disposal these young men used to go to his house and smoke *hookah* and eat sweetmeats with him. Then he went further and got Rs. 600, Rs. 700, Rs. 800, and Rs. 1000 without applying for it. One day his boss sent for him and asked him if he could suggest the name of a person, who was not an I.C.S. whom he could give an important post. That young man named some one in the Punjab and another person in Madras. His boss asked him if he knew anybody in Calcutta, and he said that he did not know. The next day the boss sent for him and congratulated him as so and so. I have seen that man myself leading a *sankirtan* party in Calcutta.

So it is nothing but pride; pride of wealth, pride of learning, pride of position. But here we have to consider in this Council Chamber the right of man as a citizen. Does society, does the state not derive any service from the depressed classes? Do they contribute at all to the upkeep of the state and to the upkeep of man's position and society? If they do contribute in any way, then it is the bounden duty of this Government to recognize them as good citizens as anybody present in this Chamber. I should be the last person to hate a man because he has a certain origin. But such is human prejudice against certain classes that you cannot possibly ignore the fact that it is not the depressed classes or oppressed classes who have gone down, but it is those classes who consider themselves of having the proud privilege of being a superior class and who have kept them down in the scale of society, it is they who have gone down in the scale of humanity. That is my sincere conviction, and I am very glad indeed that a resolution like this has come from an orthodox Hindu gentleman and that it has been so ably, so earnestly and so enthusiastically supported. And I can assure the hon'ble members of this Council that nothing will be want-

Digitized by srujanika@gmail.com

ing on my part, if I can in any way contribute by my humble service to the uplifting of these classes. There will certainly be municipalities and district boards where you will find a man who belongs to that class itself. I had a man whom I took on, on Rs. 7 a month, and I am now paying that man Rs. 159 a month, and he can do work which I would challenge any man on Rs. 600 to do, even if I brought him out from England.

With these remarks I support the resolution.

116. Trained *Dais* for Rural Dispensaries*

The Hon'ble MR. MADHUSUDAN DAS: Sir, I fully sympathize with the mover of the resolution. But I ask the hon'ble mover to bear in mind that when we are discussing resolution here we do not take into account the solution of the resolution in its practical application. There are difficulties, great difficulties in the way of giving practical effect to the resolution. I know there are *dais* to be had in most villages but it is very doubtful, whether they earn their money by killing people or by giving them a new lease of life. There is an Indian adage which applies to ayurvedic doctors which says that a man cannot be a doctor unless he has killed a thousand people. The necessity of training up a class of women to undertake the kind of work that the *dai* is supposed to do in the villages (not what she actually does), will be admitted by all right thinking men, but there are these difficulties in the way. First of all the kind of work which these *dais* do now has been, as it were, set apart for the lower class of people. They do not belong to that class of people whom we have been describing as untouchable or depressed or oppressed and who need to be redressed. So the first difficulty is to get women from a class where you would expect to find intelligence, good manners, and some sense of responsibility. The next difficulty is how to train them, and where to train them. If you send them to hospital or to the medical school, the difficulty is that they do not get chances of what I shall call clinical lectures. Very few cases of maternity come to these hospitals. Indian

*Ibid, pp. 435-36. 'Dai' means midwife.
On 31 January Saiyid Mubarak Ali moved:
"The Council recommends to the Government to take immediate steps to provide the rural dispensaries in each district with a trained *Dai*."

Digitized by srujanika@gmail.com

women, I do not mean to refer to that class whom we are accustomed to call ladies, seldom come to these hospitals. I do not know why it is so, but the fact is that they do not come. Col. Austen-Smith knows why it is so. I am afraid there is some dread of the hospital. It is a fact that they fear the hospital, consequently there is a want of opportunity and facility for educating women to work as *dais*. I know one or two who were trained in the Cuttack Medical School, but these people are married now and are perhaps looking after their own maternity cases and you cannot get them to practise. These are difficulties which come in our way. I think this is a want which ought to be removed and it can only be removed if the hon'ble members take some trouble in the matter and induce poor widows of a moderately respectable class to go through this ordeal, as I call it, with a view to serve society. A great deal in these matters which are called social reform depends upon the leaders of the society. If you read about nurses, how nurses were first of all trained in England and the objections there were from the respectable classes to take up this noble occupation, you will find that Queen Victoria took a special interest in this work. She induced some girls to take to the profession and at first she would take them out for drives in her own carriage just to give them a high position in society. I know there was a *dai* in Calcutta who used to charge Rs. 32 a visit. She had a fine pair of horses and a nice broughman. She did not know the alphabet. Her name was Badan Dai, and she was well-known in Calcutta. This was in the old days when the *parda nashin* system was very strict. Dr. E. H. Charles (not the gentleman who is now as Dr. Charles) used to start in the morning from his home with a determination not to return home till he had earned Rs. 1,000. He took an interest in this Badan Dai, trained her and raised her to such a social position that she could demand and used to get Rs. 32 a visit. If it is necessary that people of respectable position should take an interest in these things because these matters are very intimately connected with social reforms; you cannot expect the Government to do anything of that kind as a government. I do not mean to say that it is not the duty of particular individuals occupying Government offices to do this but as a government the Government cannot do anything. Under the circumstances, all that I can promise is this, that I have got a certain idea in my head but it has not yet

Digitized by srujanika@gmail.com

reached the stage of maturity should I not allow it to be born here in this Council Chamber now. But I may tell hon'ble members that I am giving this matter my serious thought, and perhaps in a few months' time something will be done. More than that I cannot promise my hon'ble friend, the mover of the resolution, I hope that, as I sympathize with his wishes, he will sympathize with my difficulties.

116. Residence for Public Servants*

The Hon'ble MR. MADHUSUDAN DAS: Sir, the officers of the Government are entitled to certain considerations. The principle which governs these considerations is not and should not be only the comfort and convenience of the officers, but the facilities to the public services as well. If an officer is obliged to live far away from the place where he has to work, you cannot expect him to attend his business with the same facilities as if he had residential quarters near his place of business. Then the question is how these comforts are to be supplied, where there is need for them? I suppose the only reply is that these residential quarters should be built with money borrowed, and that difficulty has been solved for us in the Fundamental Rules which have just come out. They lay down the principle that these residences should be built with money raised by loans. The resolution goes a little further. The difference between a loan and Government money is this. Government money when it is applied to the building of residential quarters is not available for important improvement which a baby province like this is sadly in want of. You may borrow from the Government of India or other sources, Government officers are entitled to demand their comforts and conveniences, but so long as that can be insured he should not be justified and should not be allowed to object to houses not built with the Government money. The Public Works Department, as a matter of fact, admittedly pay 12½ per cent to the contractor as his profit. The total cost comes to nearly

*Ibid, pp. 445-46.
On 31 January M. Devaki Prasad Sinha moved the resolution that in future no residential quarters for public servants should be built at public expenses. The capitalists should be invited to undertake construction and maintenance of such buildings. Government money should not be blocked.

Digitized by srujanika@gmail.com

23 per cent and all these works are done by the contractors. If the very firms of contractors who are now doing the work were given an opportunity they will do the work. If we were to tell the people I want a house for the district judge. Here is the accommodation I want. Every officer is required to pay 10 per cent of his pay as house rent. Offer the rent to the public and offer to take a lease of the house for so many years. Advertise these terms and invite landlords and capitalists. It will be in the interest of the landlord to see that the house is strong, to see that it will stand for so many years. He is sure of his return, and as he is a contractor he knows that it will cost him, and how much the contract would bring to his pocket. I suppose the Council will agree with me if I say that a contractor will be able to build a house for a much smaller sum than the Public Works Department with the result that it will yield a much larger percentage of rent calculated at 10 per cent of the officer's pay than if it was built by the Government. So this is a thing which ought to be tried and if it is tried Government will be relieved of much expense and work of supervision. It has been said that it will not be built of good material. I do not care what the material is. We will have from the man an agreement to this effect that he will keep it in proper repairs. If he does not keep it in proper repairs, the repairs will be done and the amount will be deducted from the rent due to him. It is his look out. As a matter of fact, however, these contractors supply all materials and I have come across cases where the materials and bricks are stacked. They are bought at Rs. 10 and when they are not used they are sold at Rs. 7. While I am not in the least prejudiced against public officers, while I am willing to give them every possible comfort, I should like to give this plan a trial, as an experiment at least in some cases.

The Hon'ble MR. MADHUSUDAN DAS: My position is (I want the Council clearly to understand) that so long as outside money comes in I am not likely to be told that I cannot get money for cholera and other epidemics because we have spent so much money in building houses for Government officers. Anything like that is revolting to my ideas of justice. All I can say is that I cannot accept this resolution as it stands. The hon'ble

Digitized by srujanika@gmail.com

mover will kindly bear in mind that this is a system which is older than I am. I hope he will withdraw a resolution with this assurance from me that I will try this system he is advocating as an experiment and I shall certainly communicate to the Council the result of the experiment.

117. The Budget: Scientific Department* (XXII and 32 — Medical and XXIII and 33 — Public Health)

The Hon'ble MR. MADHUSUDAN DAS: Sir, I beg to introduce the budget heads XXII and 32 — Medical and XXIII and 33 — Public Health. The necessity of developing medical relief in the Province was one of the first subjects discussed in this Council. Government could not accept the resolution which was moved in its original form as they realized that it was impossible to hope that every police station in the Province should be provided with a dispensary in the short period of one year. They have however endeavoured to develop medical relief as far as possible and the grant of Rs. 3,00,000 voted by the Council has proved useful for assisting the district boards. It is however quite clear that medical relief cannot be developed in some districts till the boards have large funds available to meet the recurring charges. The districts which are handicapped in this way are Ranchi, Palamau, Puri, Sambalpur and the Santal Parganas. The wealthiest districts have drawn up programmes and are carrying them into effect and a report will be prepared for the information of members showing the position in the various districts. The grant of Rs. 3,00,000 has been distributed as follows:

	Rs.
Gaya	20,000
Shahabad	15,000
Patna	Nil
Darbhanga	10,000
Saran	22,000
Champaran	18,000
Muzaffarpur	20,000

*Ibid, pp. 503-13. Date of discussion — 14 February 1922.

Digitized by srujanika@gmail.com

Cuttack	40,000
Balasore	12,500
Puri	Nil
Sambalpur	10,000
Ranchi	Nil
Palamau	Nil
Manbhum	24,750
Hazaribagh	30,000
Singhbhum	15,000
Bhagalpur	10,000
Purnea	15,000
Monghyr	20,000
Santal Parganas	Nil

A special grant has also been made to the Singhbhum Board for a dispensary as well as for the improvement of the water supply at Jagsalai, a large bazar near Jamshedpur the needs of which have been pressed by Mr. Baijnath. That the resolution has had the effect of stirring up district boards to develop medical relief is shown by the fact that the Saran District Board which last year expressed its inability to maintain any more hospitals have this year drawn up a programme for eight dispensaries. I may add in regard to this district that the district board had a difficult task before them after the floods in October. Great credit must be given to the civil surgeon, Major Mills, the Collector and chairman Mr. Luce and to the officers of the district board for the effective measures which they took to prevent an outbreak of cholera after the floods and to prevent also a serious outbreak of malaria. The Sonepur *mela* also passed off without any outbreak of cholera and for this again credit must be given to the board and to its vice-chairman. The Minister personally visited Saran soon after the flood and also on two occasions inspected the medical and sanitary arrangement at the Sonepur *mela*. (This has been drafted by the Secretary and in natural modesty he does not mention himself — he also went with me.) The Patna District Board have also in response to the resolution increased their programme and propose to establish eight more dispensaries although last year they were disposed to think that no more were needed.

Though the Puri festival passed off without a serious outbreak of cholera, the year was marked by a very severe outbreak in

Digitized by srujanika@gmail.com

the Patna Division in August last. Details of this outbreak of cholera are known to members. The district boards especially the district board of Gaya under its chairman, Babu Bishun Prasad did all they could to stay the outbreak but were handicapped by having an inadequate staff. This outbreak brought home the necessity of having a reserve to assist district boards in such emergencies and it is for this reason that Rs. 50,000 has been provided in the budget for a reserve of trained vaccinators and other persons whose services will be placed at the disposal of district boards when needed. This measure though at present only temporary may be regarded as a first step towards building up a Public Health Organization for the provision on the lines recommended by the committee appointed by the Local Self-Government Conference. The proposals of that committee are already in the hands of members and it will, it is hoped, be agreed that they represent a real step forward in the campaign for public health. The scheme has been drawn up by gentlemen who have practical experience of district board administration and will I feel sure prove to be workable and successful and will command the approval of all members of the Council. Hon'ble members will permit me to emphasize these words. I trust that funds will be available to carry it into effect.

Before passing on to the details of the budget there is one other incident to which reference may be made. As the Council is aware many of the coolies who had left Assam found their way to this Province and were stranded at Asansol and other places. They were infected with cholera and were a serious menace to the public health of this Province. Prompt steps were taken by Mr. Davies, the deputy commissioner of the Santal Parganas, in whose district the coolies were stranded and he, with the aid of a non-co-operator, succeeded in inducing the coolies to go to their native districts and despatched them by special trains, while arrangements were made to prevent infection and to treat those who were sick by the Director of Public Health and the railway authorities.

In introducing the budget it will be convenient to deal with the two heads, Medical and Public Health, together. Medical represents the provision of curative medicine, public health represents the provision for preventive medicines and measures.

Digitized by srujanika@gmail.com

It would no doubt be better if these two were combined under one head for preventive and curative measures should go hand in hand, a point which was clearly recognized by the committee of the local self-government conference which drew up a scheme for the public health organization of the Province. Though the total provision under medical is less than in last year or than in the accounts for 1920-21, there is an increase under the head, Public Health, and thus there is no decrease in the total amount available for medical relief in its widest sense. The total provision under these two heads amounts:

	1920-21 Rs.	1921-22 Rs.	1922-23 Rs.
Medical	1,721	1,766	1,647
Public Health	328	447	471
Total	2,049	2,213	2,118

The total expenditure provided in the medical budget amounts to Rs. 16,25,000 as compared with Rs. 17,21,354, the actual expenditure in 1920-21 and Rs. 17,66,000 in the budget for 1921-22. The reduction is almost entirely due to the fact that in these two years Rs. 3,00,000 has been provided for grants to district boards for the construction of new dispensaries; in the current year it has only been found possible to allot Rs. 2,00,000 out of the sum of Rs. 10,00,000 in regard to the distribution of which the Finance Committee were asked to advise.

In other respects the budget is a normal one, though there are variations in the figures under the various heads and subheads. Medical work in the Province cannot be developed to any large extent till we are in a position to undertake recurring expenditure. The need for a medical college has long been recognized and many of the leading noblemen of the Province have generously contributed to the capital cost. Medical schools are needed for turning out more sub-assistant surgeons to work under the district boards if the scheme to which I have already referred for a general public health organization is to be carried into effect; the poorer district boards require financial assistance for the establishment of

Digitized by srujanika@gmail.com

dispensaries up to the standard fixed by this Council; but all the schemes involve Government in recurring liabilities and as the Financial Secretary has pointed out, Government are not in a position to undertake further recurring liabilities. All these schemes must be held in abeyance till the revenues of the Province exceed the recurring charges and this can only be secured by increasing your revenues or decreasing your recurring charges. It is not even possible under present conditions to increase the pay of sub-assistant surgeons up to the rate fixed in Bengal and in the United Provinces, though the Inspector-General of Civil Hospitals has strongly pressed their claims and has pointed out that under present conditions it is very difficult to recruit sub-assistant surgeons and that the students who have passed through the medical schools of Patna or Cuttack prefer to take up private practice or employment under other Governments or local bodies or even to adopt other professions. Still less is it possible to find funds for the other schemes which have been suggested in this Council, such for instance as the training of *dais* for mufassal dispensaries. For these reasons the budget is a normal one and it is unnecessary to weary the Council with a long account of the details. If any member wishes for further information, the Secretary to Government or the Inspector-General of Civil Hospitals will be ready to give explanation of figures which, it must be admitted in some cases, are rather mysterious.

Before dealing with the heads A, B, C and D of the budget, I would ask hon'ble members to refer to pages 110-11 of the budget estimates; there are two items given in the summary at the head of the budget to which I must refer. Rs. 25,000 is provided as contribution to the Calcutta Medical College for Bihar and Orissa students studying there. This is to satisfy a bill presented to us by the Government of Bengal, who under the Reform Scheme are entitled to claim payment for services rendered. As they have to pay the charges incurred for patients at the Ranchi European Lunatic Asylum or boys from Bengal detained at the reformatory school, so we have to pay for students trained at Calcutta. Another item is Rs. 30,000 of the establishment of the Radium Institute at Ranchi. As members of the Council were informed last year, the Government of India gave this Province Rs. 2,00,000 towards this institute and Rs. 75,000 was, therefore, provided in the budget to enable

Digitized by srujanika@gmail.com

Colonel Vaughan who will be in charge of the institute to purchase the necessary equipment. He has now done so in consultation with Colonel Austen-Smith during his leave and much of the apparatus for the X-ray plant has already arrived and the precious few grains of radium will arrive shortly. Colonel Vaughan will himself arrive in India in March and will begin his work in a hired house and will also be in a position to supervise the construction of the buildings and installation of the apparatus. Colonel Vaughan is zealous and enthusiatic in the work and will spare no pains to make the institute, which will be the first of its kind in India, a success. It is hoped that, when the work in the institute has developed, it will be made nearly self-supporting and will be maintained out of the fees and out of contributions from provinces who send patients to it.

Head A of the budget "Medical Establishment" included the pay and establishment of the Inspector-General, the pay and establishment of district medical officers and reserve medical subordinates. The provision is fixed with reference to the officers actually employed in these posts and the total expenditure is estimated at Rs. 6,13,500 or Rs. 95,000 less than in the budget estimate of the current year. This is not due to any reduction of establishment but is merely due to the fact that the amount required for the salaries of Indian medical service officers under the head "District Medical Officers" was over-estimated in the budget of the current year. Also the leave allowances of officers who have been serving in the army department have been debited to the department under which they earned this leave. It will be seen that the pay of assistant surgeons and sub-assistant surgeons is shown in various parts of the budget and an increase in one place is set off against decrease in another. It may be noted that provision has been made for two temporary assistant surgeons to assist Dr. Das, the Civil Surgeon of Puri, in the reserved work on filariasis. These assistant surgeons are already employed on this work but the investigations, though very promising, are not completed and it is necessary to continue the work. The results of Dr. Das' work have attracted considerable attention and he has made valuable discoveries in regard to the growth of the germ in mosquitoes and also in regard to methods of treatment, and

Digitized by srujanika@gmail.com

there is every reason to hope that his further investigation will meet with success. It may further be noted that a gentleman of Calcutta has offered Rs. 20,000 for the construction of a hospital for filariasis patients at Puri.

The head B — Hospital and Dispensaries — includes the provision for certain items which were approved by the finance committee. These were Rs. 9,000 for clothing and bedding for patients of the Patna general hospital, Rs. 45,000 for grants to dispensaries for the purchase of equipment, etc., Rs. 2,00,000 for 'grants to district boards for new dispensaries'. There is also a provision of Rs. 50,000 for a grant to the Purulia Municipality for the rebuilding of their hospital. This is to carry out a promise made by the late Government. The Raja of Panchet in that district has generously given Rs. 1,00,000 and hence I feel sure the Council will approve of Government supplementing this generous donation. This sum was, I may add, voted by the Council last year but the municipality has not been able to finally approve the plans and the work has only just been taken in hand. The total amount provided under this head is less than in the previous years, but this is due to the reduced provision of Rs. 2 lakhs for new dispensaries. A provision of Rs. 6,000 has again been made for the appointment of a maternity supervisor and midwives in Patna City. There has been some delay over the appointment of a supervisor but this appointment has just been filled.

C — Medical School and College — The figures are almost exactly the same as in the current year except that the cost of teachers and demonstrators has risen. There has been no increase in the staff or in the rate of pay and allowance and the increase is merely due to the fact that the actual holders of the posts happen to be senior assistant surgeons on high rates. In last year's budget provision for the increased pay of sub-assistant surgeons was made in lump and this has now been divided up among the various heads. The charge of Rs. 5,000 for hostel charges of Bihari students at the Medical College is not, as it appears to be, a new charge; it was formerly included in the education budget along with other similar charges.

D — Lunatic Asylum — The expenditure under this head represents the cost of maintaining the European Lunatic Asylum

Digitized by srujanika@gmail.com

at Ranchi and the Patna Asylum but the greater part of the cost of the former is recovered from other provinces. Only 8 patients from Bihar and Orissa were confined in the asylum out of a total number of 216 and then this Province has only to bear about 4 to 5 per cent of the total cost. I may mention in this connection that the Government of India, with a view to relieving this Government of the charge of an institution in which it has little direct interest, have proposed that the asylum should be placed under a board of trustees consisting of representatives of the various provinces concerned who will recover the cost involved from the provinces. They will probably introduce a Bill at an early date before the Legislative Assembly to legalize the constitution of the Board. Even if this Bill is passed, Government will of course have to pay their share towards the cost of the asylum and there will be no actual reduction of expenditure. The increase in expenditure is mainly due to an increase in the number of servants and guards. The number was found insufficient to provide at least two warders in each block of the building and there was a serious risk if only one warder was employed of lunatics causing damage to other patients or to property. One case in fact occurred in which a female patient was seriously injured by another female patient who overpowered the single warder on duty. It has also been found necessary to give allowances to the keepers and nurses in view of the difficulty of getting persons for their post and this accounts for the provision of Rs. 5,909 under the head "House rent and other allowances". There is also an increase under the head "Miscellaneous contingencies" (non-contract). This item chiefly represents the cost of food but it includes the pay of sweepers and other menials, provision for furniture, clothing, etc., and other similar items which need not be detailed. Some of the expenditure is necessary for the improved methods of treatment introduced by Major Berkeley Hill, e.g. for teaching them trades such as carpentry and weaving. The equipment of the asylum was, as some members are no doubt aware, severely criticized in the press and it is to remove the defects then pointed out that some of the expenditure is needed.

The Public Health Budget shows a total provision of Rs. 4,76,000 or nearly 1½ lakhs more than in 1920-21. It is also

Digitized by srujanika@gmail.com

Rs. 29,000 more than in 1921-22 budget, but the increase is really more than this, for the current budget included Rs. 73,000 for the establishment of the Sanitary Engineer which, it has now been ruled by the Accountant-General, should be included in the Public Works Budget. Thus the total increase as compared with last year is just over one lakh. This is principally due to the inclusion of two items approved by the Finance Committee viz., Rs. 50,000 for an epidemic reserve and Rs. 11,000 for sanitary training classes at Gulzarbagh. These may be regarded as preliminary steps towards the formation of the Public Health Organization recommended by the Local Self-Government Committee. The Epidemic Reserve will consist of vaccinators trained in preventive measures who will be stationed at various centres in the Province from which they will be sent out to assist district boards in the event of outbreaks of cholera, etc., and it is hoped that with this reserve we shall not have the same experience, as last year, of having a serious outbreak, such as that in the Patna Division, and of having no staff at hand to fight it. Steps have already been taken to mobilize the staff which will, it is hoped, be ready by the beginning of the cholera season.

It will be seen that there is very little difference under head "A — Public Health Establishment" from the previous years except for the provision of Rs. 11,000 for the Sanitary Inspectors' School at Gulzarbagh to which reference is made above. The budget also shows four Assistant Directors of Public Health as against three last year. Actually there has been no increase: there are still 3 assistant directors and the fourth officer is the officer employed directly under the Director of Public Health as Publicity Officer whose pay was shown last year under the head "publicity campaign". Several articles written by this officer have been published in the press and give in simple language instructions regarding common diseases which should prove most useful. There is an increase of Rs. 5,000 under the head of contingencies for the Vaccine Depot at Namkum which is to enable the department to turn out a large quantity of vaccine.

Head B includes the contribution for health officers employed by municipalities. The provision is less than in the previous year and this is due to the fact that the health officer of Gaya will in future be paid by the Lodging House Committee out of the proceeds of the terminal tax recently imposed.

Digitized by srujanika@gmail.com

Provision of Rs. 25,000 has been made for the so-called experimental Sanitary Survey or intensive sanitation scheme in Gaya. This scheme is now working and a favourable report has been made on it by Dr. Tiwari who originated it. The amount has been promised to the Gaya board by the late Government who undertook to bear half the cost of the scheme. When the proposal for the public health organization in the Province has been further examined in the light of the criticisms received, the question of continuing the expenditure shown in this part of the budget on this as other items will have to be considered. For instance, the committee did not consider health officers in municipalities necessary and suggested that they should be more suitably employed under district boards. The Gaya scheme may, with the consent of the district board, be modified to fit in with the general organization and possibly the school medical officers might be amalgamated with the general organization. All these questions will be carefully considered, so that the staff of the public health department may be used to the best purpose for the prevention of epidemics.

The provision under head C will also be similarly examined. Sir, in submitting this budget to the hon'ble members of the Council I am bound to express my sense of sincere gratitude to Secretary, Mr. Hallett, who is the author of this report. I should certainly not be justified if I claim any credit for what I have read out. The hon'ble members must have noticed that this report makes a reference to reorganization of Medical Department and the Department of Public Health as proposed by the committee of local self-government. That, I consider, has been placed in the hands of every hon'ble member and I have no doubt it has already received or it will very soon receive their proper attention as to how far it is adapted to the conditions and the demands of the people and to the finances available. Mr. Sifton in presenting the budget has said that formerly the Government of India used to make grants for meeting the needs of the Province — if I may be permitted to use the expression which I used first — this 'baby Province'. We stand altogether on a different footing now. Mr. Sifton in presenting the budget has very distinctly said and in very apt words — I wish I could quote the very words — that now the Government of India expect us to deal with the transferred

Digitized by srujanika@gmail.com

subjects and find revenue for the administration of these subjects. I have no doubt the hon'ble members must have noticed that since the transfer of these departments to a Minister there has been a great change. If you refer to the Devolution Rules which give a list of the subjects that are transferred, hon'ble members will find that there it is said that medical administration, medical education, dispensaries and hospitals are under one head, and then again the other item is public health, sanitation and vital statistics.

Till within a few months the officer at the head of this Public Health Department was called Sanitary Commissioner. It is quite recently that his official designation has been altered to the Director of Public Health. That appears a very insignificant change, but if one tries to understand what that change means he will soon find that the responsibility of the people in consequence of this change is very great indeed. The Minister in charge of the Local Self-Government Branch is responsible for the public health, i.e. the health of the population of the whole Province. It was not public health that the Sanitary Commissioner had to deal with. His duties, as his official designation denoted then, were to introduce certain changes — certain reforms in certain areas, which were visited or had been visited, when this department was under the administration of the Bengal Government, by epidemics. Now the people are responsible for the health and life of the population. Hon'ble members will also see that the name used in the schedule in the Devolution Rules as described in the second item are "medical administration" including hospitals, dispensaries, asylums and provision for medical education. But vital statistics comes under the head of Public Health. It is the department of public health that must be responsible for mortality. Then when was this made? The heading is "provincial subjects for transfer". What I have read out are the notes of Secretary. They are certainly the views of the Government but as Mr. Bremner, one of the Secretaries, has claimed the right of speaking out his own mind, I think, as a Minister, I have a right to speak out my own mind.

The Hon'ble MR. MADHUSUDAN DAS: I should not have been called to order. Somebody else who interrupted me from behind ought to have been called to order.

Digitized by srujanika@gmail.com

The Hon'ble MR. MADHUSUDAN DAS: Every other province except our poor Province has not got a tender heart.

118. The Budget: Introduction of Head — Civil Works*

The Hon'ble MR. MADHUSUDAN DAS: Sir, I rise to introduce the heads relating to Provincial Civil Works in charge of the Public Works Department and civil officers.

The revenue and expenditure under the head "Public Works in charge of Civil Officers" has hitherto been accounted for in the Civil Departmental budgets but under recent instructions from the Government of India this head is to be abolished from next year which necessitates the transfer of the estimates under this head to the Public Works Department budget. The figures in the following paragraphs represent the combined figures for Public Works in charge of the Public Works Department and civil officers.

The actual revenue receipts during 1920-21, the major portion of which consisted of rents of buildings, amounted to Rs. 6,09,971 of which Rs. 4,85,365 was derived from the buildings in charge of the Public Works Department and Rs. 1,24,606 from those in charge of civil officers. The budget estimate of revenue for the current year was fixed at Rs. 6,22,000 but the actuals for the first seven months foreshadow a decided increase, which is anticipated to be not less than half a lakh. There is a further increase of another half a lakh due to the credit of the donations for the Leper Asylum at Cuttack to "Revenue". The revised estimate of revenue for the current year has, therefore, been taken at Rs. 7,22,000. The proposed budget figure for 1922-23 is Rs. 6,47,000 which relatively is practically the same as the revised estimate for the current year as from the latter may be deducted for purposes of comparison, the half lakh special donation for the Cuttack Leper Asylum and Rs. 23,000 for refund of ferry receipts, etc., which latter have up till now been shown as an item of expenditure but will in future be treated as a reduction of revenue.

As regards expenditure, the budget for the current year was passed for Rs. 87,10,000 viz., Rs. 71,50,000 for works in charge

*Ibid, pp. 525-27. Date of discussion — 15 February 1922.

Digitized by srujanika@gmail.com

of the Public Works Department and Rs. 15,60,000 for works in charge of civil officers.

The distribution of total is as follows:

	Rs.
Angul	1,14,000
Reserved Department works and repairs	18,13,000
Transferred Department works and repairs including communications, establishment, etc.	67,83,000

The revised estimate for the current year has been reduced to Rs. 70,10,000. This large reduction which occurs mostly on the works in charge of the Public Works Department is attributable to various causes: firstly, to the restriction of expenditure on certain projects as advised by the Standing Committee on the authority given to them by this Council last year; secondly, to the retrenchment ordered by the Local Government in the middle of the year for facing the anticipated fall in excise revenue; thirdly, to some of the larger projects, viz. the electrical and water-supply installations in the lunatic asylums at Kanke, the Radium Institute, Ranchi, the subdivisional buildings, Latehar, and some of the bridge projects not having advanced sufficiently, and fourthly, to the fact that owing to the difficulty in obtaining coal, there are no stocks of bricks anywhere and construction on a number of projects which are included in the current year's Budget has had to be delayed until bricks could be burnt during the present cold weather. A few urgent projects not included in the original programme have had to be financed during the current year by re-appropriation, the principal items being (1) the extension and improvement of the electric plants in the power house at Patna, (2) the tahsil offices and quarters for its staff at Banpur in the district of Puri, (3) the quarters for the ministerial staff of the Additional Deputy Commissioner's office at Dhanbad, (4) the quarters for the Inspector of Police at Dhanbad, and (5) the sanitary installation in the general hospital at Bankipur.

The proposed budget estimate of expenditure for 1922-23, after reduction of the amount recoverable from Bengal and

Digitized by srujanika@gmail.com

other provinces for their shares of the estimated expenditure on the lunatic asylums at Kanke and for the Hazaribagh Reformatory School, is Rs. 70,27,000, i.e. Rs. 56,72,000 for works in charge of the Public Works Department, and Rs. 11,55,000 for works in charge of civil officers. This is distributed as follows:

	Rs.
Angul	1,50,000
Reserved	17,11,000
Transferred	51,66,000

The details of the grants are shown in the respective Budgets printed under the above nine heads. The expenditure in Angul is outside the vote of the Council. All the other grants are subjected to the Council's vote except Rs. 1,81,600 which represents the pay and allowances of the Imperial Service of Engineers and is non-voted. The grants included in the Budget are mostly of an obligatory nature, i.e. on works in progress, repairs and establishment. Only Rs. 3,99,000 is assigned to new projects, Rs. 2,81,000 to Reserved Department works and Rs. 1,18,000 to Transferred Department works.

119. General Discussion on the Budget*

The Hon'ble MR. MADHUSUDAN DAS: Sir, hon'ble members must have noticed that what was previously called the Sanitary Department is now called the Department of Public Health. The designation of the head of that department has been changed to the "Director of Public Health". The Minister of Local Self-Government is responsible for the administration of the two departments, the Medical Department and the Department of Public Health. He is also responsible for the administration of municipalities, district boards and either local authorities established for the purpose of Local Self-Government. The departments named above are transferred subjects. The administration of these subjects has been transferred to the people. At the head of the administration under the provisions of the statute has been placed a Minister. The whole arrangement is meant to test the capacity of the people for Self-

*Ibid, pp. 815-23. Date of discussion — 21 February 1922.

Digitized by srujanika@gmail.com

Government and on the success or otherwise of this experiment will depend on the ultimate decision of the question whether the people can be entrusted with a larger share of Self-Government. This partial transfer of administration, this division of subjects into reserved and transferred has been the subject of much adverse criticism. This is not the place to examine the soundness or otherwise of those criticisms. The tribunal which can completely deal with those questions is the British Parliament. It is necessary for this Council and the population generally to form a general idea (1) of the extent and nature of the responsibilities of the Minister of Local Self-Government, (2) the facilities he has in the discharge of those responsibilities, (3) the impediments which lie in his way, and (4) the efficiency and adequacy of the agencies and means available to him for a satisfactory discharge of his responsibilities. Let us first turn to the nature of the Minister's responsibilities. He is responsible for the public health of the Province. He is expected to keep a population of nearly thirty-five millions of people in good health. This population is divisible into two parts for the purpose of my present object. Those who appreciate the European methods of treatment and prevention of disease form a very small fraction of the total population. They may be called a microscopic minority. By far the majority of the population do not appreciate the western systems of medicine and rules of sanitation. The masses still depend on the old indigenous system of medical treatment. A renaissance of the *Kaviraji* and *Unani* systems has, in recent years, been observed among the educated classes who have experience of the western medical science.

It is not my object to institute a comparison between the western and the indigenous systems as regards their efficiency in the treatment of diseases, but faith in one's doctor is an important factor which in a considerable degree contributes to the success of the treatment. Blind faith in the Doctor or in the efficiency of the medicines is recognized in all countries as a factor in the treatment of a patient. This is the origin of the European practice of using classical names of medicines in prescription. Some professional etiquettes which are observed by members of the medical profession are also traceable to a desire not to disturb the patient's faith in his medical adviser.

Digitized by srujanika@gmail.com

Owing to Indian's specially religious turn of mind, faith exercises a greater influence over the mind of the Indian patient. The Indian systems appeal to his faith. The indigenous system has the further advantage of providing a cheaper system of treatment for the ordinary ailments of life. The European medical system has been in this country for over a century, it has received the exclusive patronage of the State. The department has been extended and expanded. It has turned out thousands of doctors but the indigenous system has survived, and even at this day counts an overwhelming majority of the population among its believers. Every village has its Kaviraj or Hakim. He may be a quack but he commands the confidence of the village and has successfully kept out the practitioner of the European system of treatment. The advantages of the indigenous system are the popular faith in its efficiency, the cheapness of the system, and an existing agency in almost every village. In an attempt to provide an organization for the public health of a population of thrity-five millions of people, should these advantages count for nothing? Is there any doubt that Government encouragement of the indigenous systems will produce popular appreciation more readily than our attempt to introduce a foreign system? It is admitted that the ignorance and superstition of the masses is an impediment to an appreciation of the foreign system. Without this appreciation there is not the least likelihood of the system being maintained by the people. If it were necessary to tax the people for the maintenance of an organized agency responsible for the health of the masses and the masses were required to select between the doctor as against the indigenous practitioner, I have not the least hesitation in saying that practitioners of the foreign system will have to go to the wall. As a matter of fact the practitioners of the indigenous system are fed and clothed by the people. They do not receive any subsidy or aid from the State.

The products of our medical schools and colleges have not yet been able to make a living by practice among the masses. No doubt a number of men attend the dispensaries and hospitals, but the class who resort to these institutions are residents in towns where the atmosphere has been affected by the influences of Western civilization and where treatment

Digitized by srujanika@gmail.com

and medicine are given free of charge. The Department of Public Health has to deal with epidemics and the ordinary ailments of human life. Of the epidemics which levy a heavy toll on the masses are cholera and small-pox. These spread like wild-fire. In the case of cholera the curative method recommended by the foreign system, namely the saline injection, cannot possibly be used in the rural areas, because it requires the attendance of more than one medical man and close attention to the patient for hours and sometimes days. I do not believe we shall ever have the money or the supply of a sufficient number of medical men to provide for this treatment in every village. At present we supply potash permanganate pills for internal administration. The indigenous system also have their treatment by internal administration of drugs. The employment of preventive measures is the most efficacious in combating cholera as an epidemic. Of the supposed causes which contribute to the spread of cholera and which develops its destructive epidemic character, many have not yet emerged out of the debatable region of hypothesis or individual opinion. The only reliable preventive measure which has been tested and is entitled to confidence is the disinfection of drinking water. There is not the least doubt that arrangements for disinfecting sources of drinking water should be made in every village. The question of a suitable agency to be employed for the disinfection of water has been discussed. The employment of vaccinators and of the village school masters has been suggested. I am inclined to think that the village Kaviraj and Hakim, wherever available, should be entrusted with this work and should be preferred to the vaccinator or the school master. He will of course be trained and arrangements for such training should be made. In the budget speech which was written by my esteemed collaborator Mr. Hallett, which I read out here the other day, there is a provision of two lakhs of rupees for grants to district boards for the construction of dispensaries. There was a provision of three lakhs of rupees in the present year's budget for the construction of dispensaries. That amount has been distributed among several district boards. The construction of dispensaries is not in my opinion calculated to stop the spread of epidemics. The construction of the building takes a long time. I can give instances where buildings, the construction of which was entrusted to the Public Works

Digitized by srujanika@gmail.com

Department, could not be commenced for want of bricks. Bricks could not be burnt for want of coal. There are cases where the dispensary building is ready but no medical man is available to run the dispensary. The late Government decided to give grants to local bodies for the construction of dispensary buildings if the local bodies undertook to find funds for maintaining such dispensaries. The object of this apportionment of non-recurring and recurring charges in the provision for medical treatment of the people between Government and the district board was in keeping with the policy of foreign rulers who neglected from the commencement of their administration to examine the merits of the indigenous systems of medicine and decided to propagate the foreign system as the only means to alleviate human suffering. I have no quarrel with our foreign rulers for having inaugurated this policy. They had faith in their own system and considered it their duty to propagate the system. Those of my countrymen who were inoculated with the serum of western civilization lent their sympathy and support to the foreign system. Hospitals and dispensaries were built and maintained with princely endowments from the Indian nobility. What was the result ? The indigenous system languished and suffered from inanition. What was the root cause of this misdirected energy on the part of the educated section of our nation ? This root cause of all this was the omission of duty to the masses — an absolute unjustifiable neglect of the claims of the masses. This charge of omission is to be laid at the door of the rulers and the ruled with equal force. But now the angle of vision has changed — the standpoint from which we must take a proper measure of our responsibilities is new. We must look to the health of the masses first. The foundation of a new organization must be laid at the base of the social pyramid, and the edifice must be built up and connected with the superstructure which has been left as a legacy by the old Government. I have told you that the principal part of the duty of the Minister of Local Self-Government is to attend to the health of the masses. They form by far the bulk of the public, which the expression " public health " comprehends. A work of this gigantic nature cannot be done without money, men and mind. Success must depend on a combination of these three factors. Let us see which of these three factors are available to the Minister. This is a

Digitized by srujanika@gmail.com

baby province. I am responsible for having christened it as baby province in the Viceregal Council. The baby province had to be built up. The initial expenses in the construction of a capital were an enormous draft on the Government of India. Before the baby was able to stand on its legs, the great war was found necessary to increase the salaries of Government servants on the ground of high prices of living. That drained the provincial exchequer to its bottom. So there is no money available. Then as regards men we have our Indian Medical Service, our assistant surgeons and sub-assistant surgeons. Is their number sufficient to supply the units of an organization to meet the demands of public health of the Province? The reply must be in the negative.

We have had our Civil Surgeons and the Sanitary Department with their panoply forged on the anvil in western laboratory. During the whole period of British rule in India, they have been under the guidance of their countrymen as chairmen of municipalities and district boards, but what have these local bodies to offer to the Minister as their contribution to the promotion of public health? All that the municipalities have accomplished during life-time of more than a half a century is to have an European quarter in every town. What does this show? Does not this show that the methods used by our rulers are not suited to the conditions of this country. Apart from other grounds of unsuitability, the system is too costly for the condition of the people, and should be modified. It benefits the classes who stand midway between the base and the apex of the social pyramid. The benefits do not reach the base of the social pyramid. The contrast between the European and the native quarter of any municipal town shows the unequal distribution of the benefits of municipal administration. The district boards have hitherto been administered by nominated members with the District Magistrate as Chairman. Even at the present moment the district boards are administered by the District Magistrate. The Magistrate's opinion dominates and the result has been that the interests of the masses have been neglected. The funds at the disposal of the district boards have been directed to add to the comforts of the higher classes while the interests of the peasants who contribute chiefly to those funds are not only neglected, but in some places, any

Digitized by srujanika@gmail.com

attempt on the part of the poor peasant to assert his right to participate in those comforts has been visited in the Criminal Courts with punishment which is simply appalling. The members of the local bodies have not been given a free exercise of their powers and consequently they have not developed a due sense of responsibility so necessary for the success of Self-Government. These local bodies are the agencies available to the Minister for the administration of the Public Health Department. Of the three factors necessary for a successful administration of public health I have given you an idea of the first two factors, namely money and men. It now remains for me to deal with the third which is the most important and most valuable. The third factor is mind. By this I mean the enthusiasm, earnestness and sense of responsibility of the men engaged in the work. It is well-known that one man who throws his heart and soul into the work in hand can accomplish what ten men who follow a routine set before him can ever accomplish. To do justice to the poor long-suffering masses one should be able to transport himself in imagination into their position in life. This seems an easy work, but the adoption of the principle as a guide in the daily concerns of life is not so easy. I shall now proceed to an analysis of the Minister's position. A Minister in a dyarchy is unknown in the history of the world. The political history of the world furnishes no precedents for his guidance. It is no wonder that imagination points to each individual a phantom which each individual clothes with powers as occasion requires. This reminds me of a Persian couplet:

Kas na ayan bazer-e-saya-e bum
War huma az jahan shavad m'adum.

Huma is a bird which no one has seen, but it is believed to be so powerful that it can carry two elephants by each leg and the third by its bill. The couplet means no one likes to be under the shadow of an owl even if huma disappears from the world. Having formed an idea that the Minister ought to possess the power of a huma, some people consider it most undesirable to be under a Minister who is no better than an owl. People seem to think that a Minister should shake the present administration to its very foundation; drive away all officers belonging to the several services who belong to the

Digitized by srujanika@gmail.com

reserved department, and install himself on a throne. I have discharged the duties of my office without fear or frown or hope of favour from anybody and whatever opinion, favourable or otherwise, the members of the Indian Medical Service and Indian Civil Service might have formed of my capacity or intellectual equipment, I am sure I never gave them occasion to think that the handsome salary attached to a Minister's office or fear of incurring the displeasure of anyone deterred me from doing my duty to my country and my nation. I have always looked upon gold as a handful of dust which a man might throw from his hands and still be a man — a being with a Divine spark in him. My twelve months' experience as a Minister of Local Self-Government has convinced me that the incumbent to this office should be elected by the members of this Council. The present system of selection by the Governor has been criticized on the ground that the system is fraught with the danger of the office being filled by a man who would prove a traitor to the national interests. I do not believe that a traitor to the national interest can hide his true character for two months during the tenure of this office. Not a week passes when he has to set right the proceedings and actions of local bodies where the interest of the people had been sacrificed to other interests. He has not unfrequently the painful duty of pointing out to the Indian members of municipal and district boards how they had sacrificed their people's interest to please an official, how they had allowed a European subordinate to rule over them. These decisions are communicated to the local bodies. They are not locked up in confidential files. My objection to the system of election by the Governor is not because he might choose a traitor to his country's interest to be his Minister, but I object to the system because though the Governor might choose the right man the antecedents of the man might not be known to the members of the Council. A wrong selection will soon be exposed in this Council, but due to an ignorance of the antecedents of his life on the part of the hon'ble members of this Council, the right man might unjustly forfeit the confidence of the Council. The confidence of the Council is an invaluable endowment to the Minister. A Minister elected by the Council must be known to individual hon'ble members of the Council and therefore he begins the duties of his office with the confidence of the Council. I have pointed out

Digitized by srujanika@gmail.com

to the hon'ble members that the duties of the Minister in charge of Public Health are onerous and yet he has to embark on this venture with an empty exchequer, with an agency accustomed to look at this subject from a wrong point of view. He stands in great need of the earnestness and patriotic spirit of his countrymen. He must inspire the members of the municipalities and district boards, all local bodies, local authorities and the villagers with a patriotic spirit, inculcate in them a genuine spirit of self-sacrifice, a genuine desire of nation-building, and with their co-operation discharge the responsibilities of his office. In an organization in which all the workers are honorary, a salaried Minister mars the symmetry and harmony of the organization. The office of the Minister of Local Self-Government ought to be honorary. Let me assure the hon'ble members of this Council that the necessity of this change has been impressed on my mind and there are gentlemen in this Council, both European and Indian, to whom I have talked on this subject. My experience in this office has given me an idea of the nature and amount of the daily work of the Minister of Local Self-Government. He must know law and must have some knowledge of medical service, must be accustomed to hard work and ready to spare every body but himself. I feel the office needs a much abler man than my humble self and I am always ready to hand over my portfolio to an abler successor and revert to the humble sphere of life where God had placed me to act as a tool in His Almighty Hands in advancing the interests of a portion of this Province. To convert this office into an honorary one, the present official machinery needs addition and readjustment. I do not wish to disturb the present arrangement, but it is my intention to move His Excellency to let me have the services of one or two extra officials for whose pay I shall be responsible.

I hope, when this Council meets next year to discuss the budget, to be able (God helping) to place before the Council a scheme in which an honorary Minister of Local Self-Government finds a place. But my reasons for making the office of the Minister of Local Self-Government honorary do not apply to the Minister of Education. He has no honorary workers to help him. He is the head of a salaried staff and it is but meet that his office should have the present emoluments which

Digitized by srujanika@gmail.com

are by no means out of proportion to the nature of his responsibilities.

Before I conclude I wish to make an appeal to my countrymen on behalf of the masses — the masses are the backbone of the nation. We have been put in charge of a vessel of the State without a chart to guide us. Let us fix our eyes on the polar star, which in this case are the peasants. I am sure the Power above will lead us to a harbour of peace and prosperity.

There is one other remark that I want to make. It was said yesterday — and I do not wish to make it a part of my speech — that "the Ministers have some secrets which they do not give out", or some such thing. There is nothing secret in the department of the Local Self-Government. In fact the Minister wishes that everybody should take interest in the work of this branch of administration in the country. No doubt the reserved department, on account of the responsibility being of a graver and of a different nature, has certain secrets, and also valid reasons for having them. Occasionally those who are responsible for reserved department consult the Ministers. Ministers have no responsibilities! It is open to those who are in charge of the reserved department either to accept the advice of the Ministers or to treat them as worth nothing. Suppose I have a neighbour who has had some family disputes. He comes to me and tells me, "My dear friend, will you kindly advise what I am to do in these circumstances?" I give him a particular advice. Do you think I should be justified in giving out that secret? These are things which perhaps court attacks and criticisms on the Ministers which I certainly do not think the Ministers deserve.

120. Budget Demands*

The Hon'ble MR. MADHUSUDAN DAS: Sir, it is a very great pity (I personally regret it very much) that in the discussion of a subject which ought to be viewed with a degree of solemnity on account of its connections with the High Court, certain matters should have been introduced which are calculated

*Ibid, pp. 1108-11. Date of discussion — 7 March 1922.

Digitized by srujanika@gmail.com

to create race feelings. These should not have found a place in a debate of this Council. I should have, hesitated to speak on a matter like this, but I decided at last to speak for this reason, Sir, that while there is a regrettable feature in the debate, the debate has introduced certain principles which ought to be understood in their proper light. They are abstract principles but they have been mixed up with other matters. It is desirable that we should look at the principle eliminating from it that portion of the debate which is to be regretted. I do not think there can be two opinions amongst the Indians as regards the dignity, the honour, that we should pay to His Majesty's Judges who have been entrusted with the administration of justice. The very fact that they are called His Majesty's Judges places them above the atmosphere which is sometimes surcharged with tests of a questionable nature. It has been said that the administration should have, as its aim, efficiency. No doubt, efficiency should be the true test of every administration. But what does efficiency mean when we are thinking of providing for the administration of justice in a certain local area — the administration of justice to the population on a specified area? Justice is an abstract term. I do not know, Sir, of any jurist or any writer of juristical questions who has been able to give a definition of that simple word "Justice". The only attempt that I have seen made to give a definition of the term "justice" is to be found in a book by an Italian jurist and it was accepted as the best definition by the most learned American jurist living now. Justice in the abstract is not what is wanted in any country and therefore we always talk of administration of justice. Justice that can be got out of an administrative machinery which has been constructed for giving justice such as is demanded by the local conditions is the kind of justice which the Courts are required to administer, and the machinery must be one which should be called a machinery for the administration of justice — not actually the machinery that would bring down justice from heaven or from outside the area where these courts have to administer justice. Justice, Sir, must be according to the ideas of the people. English Judges come out to this country, they bring with them their own ideas of justice which are very often based on principles which might be the result of the deliberations of most of the learned judges

Digitized by srujanika@gmail.com

and jurists that have lived not only in England but in the whole world. But still those ideas of justice have to be modified by the local conditions of India in order that the Indians may have justice such as the needs of the country require. Now, for instance look at the creation of this Province. Where was the necessity of creating this Province of Bihar and Orissa? I do not say that I was in love with the creation of this Province when it was first announced. I thought it was the greatest injustice to Orissa but that is not the question now. The Province existed. Where was the necessity of creating it? It was found that the people of this part of the country had a different history of their own, had different traditions, had different laws and different customs which had been recognized in the law courts and therefore had the force of law. All these circumstances were taken into consideration when the highest authority that is responsible for the good government of the British Empire decided that there should be a separate province. That means that the administration of justice and the administrative machinery itself should be so modified as not only to suit the present conditions of the people here — not only to meet the requirements of local conditions but also to make up for what the people of the part have lost on account of their having been placed under an administration which was not suited to the conditions of their lives (hear, hear). If we might any day think of having one administration for the whole of the world and bring up a man like Napoleon Bonaparte to rule over the whole world. If we are thinking of having an administrative machinery to suit the demands and the necessity of the local area, the question comes in, is it not desirable that the people of the place who are the best judges of the needs of the Province should have a part in the administrative machinery? What are these clerks, or these people who form a part of the administrative machinery? They form the little screws, cog-wheels; but they all help the machinery to move. The object of this arrangement is to make them intermediary agents between the masses of the population and those who are entrusted with the responsibility of administration — I should say saddled with the responsibility of administration. I am not one of those who attach any importance to a man's claim to an appointment on account of his race, but if you have to think of successful administration of a local area, you must

Digitized by srujanika@gmail.com

take the men of the place in order not only to meet their demands but to meet the needs of the administration itself (hear, hear). If it were possible for me to paint in the canvas of my imagination an establishment where you have all Englishmen, just as you find in officers in England, you will have the most efficient men perhaps, you would have an administrative machinery that could be run very smoothly but would it actually work for the well-being of the people, would it be a satisfactory administration? (hear, hear) What is the object of having the present reforms? Why am I here, if it is not that I must look at the administration from a different angle of vision? There would not be any justification for my presence here if I do not feel that it is my bounden duty to look at the administration from an angle of vision which must be different — such difference being commensurate with the distance between England and India, a distance of 6,000 miles. You might be seeing the total eclipse of the sun in England at a moment when the sun shines brightest in India. That is the difference between the two angles of vision. Well, I am personally indebted to the Bengalis. I am glad that my esteemed friend Rai Bahadur Purnendu Narayan Sinha has spoken on the subject. He is a man who is a Bengali and yet we know very well what he has done for Bihar and what he is doing for the Biharis at present. I have come across many things which he has done. I have presided over the deliberations of the anniversary of a school in which he takes great interest, and that school is maintained for the improvement and uplifting of Bihar. The Bengali is the elder brother of Bihari and Oriya and God has placed Bengalis in a higher position. It is their part to stretch out the right hand to help their younger brothers. I dare say that the best of the Bengalis realize that the very fact that Lord Sinha was appointed as the Governor of this Province by His Majesty means that they are quite a superior race. We are all concerned in the uplifting of India. If a part of India is neglected, if a part is left behind, if all the Indians do not form one nation and march abreast of each other, India will never be an integral part of the British Empire and what is wanted is that responsible India should form an integral part of the British Empire. He is not worthy of the nation that produces Raja Ram Mohan Roy, Keshab Chandra Sen and Sir Surendra Nath Banerjea, the father of political life,

Digitized by srujanika@gmail.com

who would say let other people remain behind, let Bengalis alone march ahead. Such a person is not worthy of the Bengali name. Sir, it is not my intention to question the propriety or otherwise of what has been done by His Majesty's Judges of the High Court in the matter of appointment. I am sure when this debate is published the very gentleman who has been the subject-matter of many a sharp criticism here will feel — I hope he has done nothing wrong and if anything has been done it has been done by oversight and negligence — as a Bengali that he has not been worthy of the nation to which he belongs. There has been talk of cases of relatives being put in Government posts — thank God I have no relatives in this world to seek any appointment, I have not up to this time asked any favour of that nature from Government. I only wish that each of my countrymen would be able to say, here I stand, take me for what I am worth, give me the price that I deserve.

120A. Budget Demands*

The Hon'ble MR. MADHUSUDAN DAS: Sir, I never had any experience of eating jail food, but I had something to do as a visitor some years ago. I should ask the hon'ble mover of this motion just to find out whether it is not a fact — I know it is — that *almost* — I am emphasizing this word — all people who go to jail and become its inmate for a time are found on release to have put on weight. When a man comes out of the jail he is weighed; that is a fact. I suppose you will find that in a very large percentage of cases — it would not be anything less than 95 per cent — prisoners put on weight, when they are released. Seeing that they put on weight while in jail I suppose it is fair to conclude that the requirements of the body — I do not know how far their requirements of the soul are satisfied — were properly attended to. Of course they do not get any of the delicacies of the table — nice things to eat and then get ill by overeating. Whether a particular food is good or not depends on what a man can assimilate. I was an inmate of an hospital in England. I was put under great restriction of diet. Once I felt that I would have another mutton chop to eat. I was told that

*Ibid, pp. 1131-33. Date of discussion — 7 March 1922.

Digitized by srujanika@gmail.com

I would not be allowed to take it without the Doctor's advice. The Doctor was telephoned and he said 'No'. The only test they apply is to weigh the patient at the end of every week, and if he does not put on weight, everybody is taken to task. I think, Sir, we must remember that there are two sayings "eat to live" and "live to eat". Most people say, "I am living because I want to eat". But I believe — and I have practised it — that 'to eat to live' is the sound rule; you get the largest amount of work out of the body by this. That food which gives you the largest amount of energy is perhaps the best food. So I do not think that the object of managing jails ought to be to supply the delicacies of life. It would be a very injurious programme for many people who are poor and get in there. They are accustomed to a poor diet at home; if they get accustomed to any of the luxuries of the table and the luxuries of the plate during imprisonment, when they come back I should not be surprised if they would like to go back to the jails again. The proper principle on which the management of the jail should be conducted should have the deterrent effect of prison life in view, so far as this deterrent effect can be secured without any injury to the physical constitution of the man. Certainly that should be the proper object in view. The man must feel that he is undergoing a punishment. Government should have the maximum amount of labour out of the man for all that his living costs. If the living of the prisoner costs more than he can reproduce, it is putting a premium on crime. I do not know whether my esteemed friend Babu Ganes Datta Singh has seen the jail food, they are allowed all the necessary ingredients that the human system requires — salt, vegetable, starch, carbohydrates, all these constituents of food are provided. The simple fact that 95 per cent of the prisoners come out with better build than they had when they entered the jails is satisfactory proof of the food being good.

120B. Budget Demands*

The Hon'ble MR. MADHUSUDAN DAS: Every citizen owes a certain obligation to the Government, the sovereign power that rules over the country. A citizen cannot say to a Government,

*Ibid, pp. 1211-12. Date of discussion — 8 March 1922.

Digitized by srujanika@gmail.com

you are bound to protect my property from a thief, if on the other hand he says, I will not help your Government; if a thief is running out of the house of my neighbour with certain stolen property I will not help the police in catching the thief because I am a non-co-operator. If a murder is being perpetrated in the presence of a person who professes to be a non-co-operator he will do nothing to get the offender punished because he has nothing to do with the Government. It means, if I see a murder perpetrated in my presence, I will stand aloof with folded hands and disown my obligation of citizenship to a Government because I am non-co-operator. If you introduce a principle like non-co-operation, if you have a dangerous doctrine like this, unknown in the political history of the world, it sweeps like a cyclone over a country (most of the population of which are ignorant people). And it actually inoculates the common masses with a dangerous principle, and that dangerous principle aims at overthrowing the Government. What is the position of the Government in this situation? When an offence is committed by a single individual or by a number of individuals it is the duty of Government certainly to find out the offender, the perpetrators of particular offences. In the first instance our attention should be directed to get hold the offenders and to bring home the offence to them and to see that they get condign punishment. But when you have a country which is saturated with a spirit of non-co-operation, and the people do not come forward with evidence to tell the authorities who are the offenders, because they are bound by a spirit of non-co-operation, I think I am stating an absolute truth that Government is driven to the absolutely absurd position of standing in a helpless position. It is in these circumstances the Government is constrained to say unless you help us to find out the offender what are we to do; we must punish all.

I dare say that the feeling of resentment, the intense feeling which has been expressed in this House, which has found expression outside the walls of this House is naturally, so far as I see, most unjustifiable in ordinary times and in a normal state of society. And a Government that would adopt such a principle in ordinary times before it meets difficulties created on purpose to defeat Governments attempts to find out the real offender, deserves the severe censure and condemnation of the whole

Digitized by srujanika@gmail.com

civilized world. I do feel, and therefore I am speaking these words with a view to act the part of a peacemaker between my countrymen and my Government. It is not my department, but I am taking the risk of making a suggestion. (I don't know whether the Government will accept it or not; that lies with the Hon'ble officiating Leader of the House who has grown not only grey with wisdom but now is bald with wisdom.) My suggestion is this. If Government finds that there are people who come forward to support Government, and I believe that there are a large number of people who are prepared to support Govern ment, and who do not believe that it would be wise for people to overthrow the Government, if people like that come forward and say, here we are, we are loyal to Government, we are ready to put before you any information that will lead you to find out the real offender. I say then Government ought to have confidence in the people and withdraw the punitive measures that have been introduced. That is the suggestion which I make to Government, and I hope Government will pardon me for having trespassed on police grounds which I myself dread.

The Hon'ble MR. MADHUSUDAN DAS: Sir, I would not have spoken on this subject nor is it my intention to travel over all the questions that have been discussed here. I wish the hon'ble members distinctly to understand that I do not mean to express any opinion on the matters which have been debated and that in making up my mind to speak on this demand it is not my intention to express any opinion as regards the propriety or otherwise of the several motions that have been debated or the results that have been reached.

The hon'ble Babu Nirsu Narayan Sinha in the concluding portion of his speech, made certain remarks which showed an intensity of feeling with regard to a system of police administration which is generally known as punitive. When the motions which relate to this system were discussed in this House I was not present here, but more than one member complained against the principle involved in the introduction of a system by which the punishment is not directed to the person who is really guilty of an offence, but includes amongst offenders persons who are perfectly innocent. That, no doubt, is a principle which is opposed to our ideas of justice and to administration of justice in ordinary times. But there is no gain saying the fact that we

Digitized by srujanika@gmail.com

are not living in a normal state of society. There are many things which are unusual and in regard to which gentlemen in this House and even outside the walls of this House must admit that they have not in the past experienced such a state of political atmosphere as is to be met with now. It is a peculiar state of political atmosphere that has overtaken — I was going to say enshrouded — this vast continent of India. The term by which this political propaganda has been christened is "non-co-operation". I have always held that absolute non-co-operation is an impossibility in this universe. You can never see any object which has an exclusively isolated existence and is not dependent on something else for its very existence. We all know that non-co-operation, as it is preached now, means a determination not to have anything to do with the existing Government. Now what is the relation between citizens and Government? Every citizen is entitled to demand from Government — he may be a poor beggar or the poorest leper living, the dying man within five minutes before his death has the right to tell the Government, the sovereign of the kingdom and empire — "You must protect me and my family". And on the contrary in order that he might with justice and with force insist upon and demand like that, he owes a duty as a citizen to his sovereign, to the Government or by whatever name you may call the system of administration prevailing in the country. Every citizen is bound to give a certain amount of help to Government in the discharge of its duty.

120C. Budget Demands*

32 — MEDICAL

The Hon'ble MR. MADHUSUDAN DAS: Sir, I beg to move that the Council do assent to the demand of Rs. 12,72,850 under the head 32 — Medical. This demand has the recommendations of His Excellency the Governor.

Sir, I beg your permission to make a few observations.

The Hon'ble MR. MADHUSUDAN DAS: Thank you, Sir. The Ministers, though occupying the official bench, have a peculiar

*Ibid, pp. 1273-80. Date of discussion — 9 March 1922.

Digitized by srujanika@gmail.com

position in the Council or rather peculiar relations to the Council, because they are the only two persons in the official bench here, who are responsible to the Council. That is the special character of a Minister's office. That character was specially accentuated and emphasized by some observations which were made by some hon'ble members yesterday, while the Council was engaged in discussing the provisions for the administration of the Police Department. Some members said that the Minister was responsible for the public health of the millions of population of this Province; others said that he was responsible for the health of these people to the Council. Sir, when I think of the noble nature of the responsibility of my office, my heart pulsates with pride (hear, hear) to be able to alleviate the sufferings of the poor millions, who are sitting in the dark gloomy vale of adversity exposed all these years to the worst forms of tyranny and oppression which power, wealth and priest-craft could invent — I say to be able to alleviate the sufferings of the people of this description, is a mission worthy of an angel, and consequently when I think of the noble nature of my duties, I feel a pride. But when I think of the resources at my command, for a satisfactory discharge of my duties, and the armour at my commend to carry on the warfare against epidemics — (to borrow an expression which was used by the hon'ble Babu Nirsu Narayan yesterday) — when I think of the armoury at my command, my flesh creeps to my bone, a feeling of despair overpowers pride and joy and I look up for help and guidance to God above. We often envy the Englishman in his birth right, privilege of being judged by the peers of his nation, we covet him in this right. I consider it a privilege that I stand here to be judged by an assembly composed of the elected representatives of my nation, and I am sure before they judge me, they will take into consideration all the extenuating circumstances which lie as difficulties and impediments in the way of the Minister's discharging the duties of his office. Sir, whatever be the nature of the judgement that the Council pronounces on me, whatever the Council chooses to pronounce a vote of censure or a vote of confidence, it is not of much consequence, because it concerns an individual. It concerns the individual Minister. This issue sinks into insignificance when we have a bigger issue that has been raised by the Reforms. The Reform has put my country, my nation on trial. The Reform has been introduced to test the capacity

Digitized by srujanika@gmail.com

of the Indians, to develop and maintain a system of Government which is run on principles of responsible Government. I can very well foresee the day when my whole nation will stand before the British nation and the British Parliament to receive their verdict as to whether the transferred subjects had been administered successfully or not. This is a large issue — a nation being tried, a nation of three hundred and fifty millions of people being tried to prove their capacity or otherwise for running a responsible Government. Therefore I feel it my sacred duty, as one of the first Ministers of this Reform, to bring to the notice of this Council, to the members to whom I am personally responsible, the impediments, the difficulties, the drawbacks which are attached to the office of the Minister of Public Health. In drawing the attention of the Council to these impediments and difficulties, it is not my purpose, it is not my object at all to find fault with those gentlemen who are now running the departments of medicine and public health.

I have nothing to say against them. I have nothing but admiration for them: for the devotion and loyalty with which they have carried on the administration according to the rules, and regulations, according to the system which has been prescribed to them. I have in an earlier stage of the budget debate referred to some of those difficulties and embarrassing conditions. It is not necessary for me to recapitulate them now, but I want to use the present occasion to point out certain entries in the budget as illustrations of the difficulties and impediments which lie in the way of the Minister in a serious attempt he makes for a satisfactory discharge of his duties. I take this opportunity to draw the attention to these impediments with a view that I might attract the attention of those authorities who have introduced this Reform, in the hope they might consider it necessary to remove these impediments and difficulties out of the way of the Minister. If I do not succeed in inducing those authorities to remove the difficulties that lie in my way, my attempt on the present occasion would at least have produced one result, and that result is that when my nation stands before the British Parliament to answer any charge, my nation will be absolved from a charge that might be brought against my nation for having omitted in proper time to attract the attention of the authorities to the difficulties and impediments that lie in the way. I

Digitized by srujanika@gmail.com

take this opportunity also to appeal to the members of the two great services in India — the members of the Indian Civil Service and the members of the Indian Medical Service — I appeal for their help, co-operation, co-operation of the head, heart and hand (hear, hear) to make this Reform a success. I beg to tell them that this Reform has been introduced by the British nation dictated by the British Parliament. I appeal to Englishmen who are out in India, I look upon them as exponent of a higher type of civilization: I want to remind them of all that the English nation has done, I want to remind them of the achievements of the British nation which are writ large in characters of gold in British history and I ask them 'will you give us your hand of co-operation to make this Reform a success? You are the exponents of your nation in this respect. Your nation wants you to help us in this Reform'. When each member of the service in the fullness of the terms of his service, to which he belongs, retires, he may carry with him the blessings of three hundred and fifty millions of people for having helped them to work out the Reforms on the lines of responsible Government, and when he reaches the shore of his country, he would be showered with greetings from his countrymen for having fulfilled their expectations and England's mission in India.

Sir, there are several motions, and most of these motions — eight of these motions out of thirteen — have been brought out by my friend, Babu Ganes Datta Singh.

The Hon'ble MR. MADHUSUDAN DAS: My reason for making these general observations is that, after hearing my speech, most of the motions would be withdrawn and if any hon'ble mover wishes to discuss any particular motion, certainly then that motion will be taken up.

The Hon'ble MR. MADHUSUDAN DAS: One of the motions which is numbered 297 is a motion which includes many of the other motions. So with your permission, Sir, and with the permission of the hon'ble mover, I will take up that one.

The Hon'ble MR. MADHUSUDAN DAS: The difficulties which I referred to will be found, if the hon'ble members will please look to the budget at page 110. They will find that there is in the middle of the page under the head 32a — Medical Establishment, 4, 14, 35. They will also find that some of the entries are in

Digitized by srujanika@gmail.com

italics — that means they are not votable. They will find again that what follow italicized entries are necessary for the duties of the person whose office is entered in italics. For instance, the Inspector-General of Civil Hospitals — there are his travelling allowances. Then there are other entries "District Medical Officers". They are civil surgeons of certain districts and then the hon'ble members will find certain entries below these. What the hon'ble members will find is that the head of the department, the Inspector-General and all these civil surgeons belong to the Indian Medical Service.

[Here Maharaja Bahadur Guru Mahadevasram Sahi took the Chair.]

Professor of the Indian Medical Service is really a man who is trained in army work. He comes out to this country with a certificate from the Army. He gets his special training for the Army and after he has got his training in the army and has acquired a certain amount of experience he is sent for civil work to serve as Civil Surgeon of a district. Now what does this mean? The Army training gives him different opportunities — different from those in the district. He has to deal with patients, with soldiers who are well fed by the State, well clothed by the State and who never live but in the best sanitary surroundings. Whenever there is any illness, they are shifted to a sanatorium, every care is taken of them and the Indian Medical Service officer acquires his experience with these soldiers, he is afterwards sent to treat people who are half-starved, living amongst the most insanitary surroundings. There is nobody to care for their food and they have all along been half-starved. Now, is his past experience of any good to these people in those surroundings? He gets the soldiers under military discipline and can keep them confined to their bed and can exercise all his control over them. But let him take charge of the rural population for 12 months and I am sure everybody will be convinced and he himself will be convinced that his past experience is of no use in his new surroundings. There Indian Service officers are recruited for the Army. When their services are not required they are available for civil work. Again when they are required by the Army they are taken away from us. Now, what is the result? They neither get full experience of army work nor full experience of civil work. The Army is a Central Subject but we have to provide, as you

Digitized by srujanika@gmail.com

will see, for their leave allowances and all other things and that we pay them very high. You will find that the head of the medical administration of the district and the head of the medical administration of the whole Province are men whom we cannot remove, and at a time when we might want their services the Army Department might say "No, we cannot let you have them any more". You will see that their salaries are in italics. I am proud to say, I am held responsible to the Council, but where comes the Minister among these items? Can he transfer a Civil Surgeon? Can he remove a Civil Surgeon? Can he exercise any control over them? Can he send the Civil Surgeon to the remotest villages where cholera is raging, or where there is a flood? Can he say to a Civil Surgeon "come with me" and will the Civil Surgeon come? You have the power to vote for Ministers' pay every year but you cannot touch the pay of these Heads of Departments, not even of the district Civil Surgeons. The position of the Minister is like this. You hold him responsible to the Council but you have given him no power. His position is like a man sitting near the driving wheel of a motor car which is in the hands of another person. You sit by the driving wheel and you are told, you shall be responsible for accidents if the car goes wrong, not the driver but you shall be responsible. This is absurd. It is no use having a Minister. Where does the Minister's use come in?

I will read out to you certain portion of the Public Services Commission report. The Public Services Commission raised the question on the employment of the war reserve of officers on civil duties. We have to give them food, clothe them, provide for their leave allowances because they are war reserves.

The extracts from page 245 of the report of the Royal Commission on Public Services in India, Volume I, run as follows:

> It will have been seen from the foregoing summary that the civil medical administration of India is dependent in the main on the military requirements of the country.
>
> From the inquiries which we made we are satisfied that, under the existing arrangements the civil medical work of the country has hitherto been economically and satisfactorily performed, and that no case has been made out, either on the ground of expense or of efficiency, for ceasing to

Digitized by srujanika@gmail.com

employ the medical war reserve of the army in India on civil duty. If, however, it would hereafter be discovered that the medical cadre of the army in India as determined solely by military requirements is insufficient to meet the civil medical needs of the administration, we consider that the Government should obtain such additional assistance as may be necessary by some form of civil recruitment to its civil medical service.

* * *

Since, however our inquiry in India was concluded, it has been exposed to the more serious strain of the present war, to meet the needs of which 286 officers of the Indian medical service and 113 of the Indian subordinate medical department had been recalled from civil to military duty down to the 8th April 1915. This has obviously produced a new situation calling for fresh investigation, and we recommend that this be undertaken at the conclusion of the war and in the light of the experience gained during its duration.

The war has been concluded. The question should be taken up now as to whether the provinces should be made responsible to retain so many Indian Medical Service as war reserves. Let it not be understood that I am against having European doctors, not a bit of it. There is no doubt that the Europeans are far advanced in this branch of science and we must get them but have we not got scientific men outside the Indian Medical Service? We engage them. It is absurd to say that your Minister should be responsible to the Council for the public health when somebody else would appoint men and can remove them at any time as his men. There is one Dr. Levesay at Darbhanga in charge of the dispensary. When I was there, I was told and was of opinion from what I saw of his work that he is a specialist in surgery, and my opinion has been confirmed by the Inspector-General of Civil Hospitals. He is not an Indian Medical Service and you find him there his name is not in italics in the budget.

The Hon'ble MR. MADHUSUDAN DAS: What I meant to say was that you will find that some of the motions refer to items which are indispensable, for instance, motion for a reduction of

Digitized by srujanika@gmail.com

Rs. 43,000 for "Travelling Allowance". If you cut this down, then you will have the civil surgeon of the districts sitting idle. So long as you have the men you must get some work out of them. Then there is a sum of two lakhs put down for new dispensaries; that also has been attacked. I said in my speech at an earlier stage of budget debates that this money was wanted to enable me to make provisions for other means to combat disease and epidemics. I cannot build dispensaries in all places. I have given reasons in another speech. I cannot pull down old systems, they are like walls that have been the work of years and carry with them all the force of traditions and rights, but I have to make other arrangements, and I mean to utilize that money for this purpose.

Then you will find that there is one motion about typewriters; that is a misprint. Another motion is about travelling allowance. That is in connection with doctors who are on transfer. The third is 'Visiting charge allowance of Civil Surgeon'. That means, there is the Pusa Institute which is an Imperial institute, and the Civil Surgeon of Muzaffarpur has to visit that place: that amount is to be recovered from the Government of India. Then you have 'Military Assistant Surgeon'. He also belongs to another class of surgeons, he belongs to the Military. Then you have 'Matrons, Nurses and Sisters'. These are Roman Catholic nurses and sisters who are employed in hospitals to look after the patients. Then there is 'Local Allowance of Gazetted Officers'. These are certain allowances which Mr. Hallett will explain. Then you will find, there is a provision made for *dais*. My friend, Maulavi Saiyid Mubarak Ali, moved in this Council that *dais* should be appointed and a provision has been made for that purpose. Another motion is about 'Teachers and Demonstrators'. These are necessary for the two Medical schools. Colonel Austen-Smith is here and he may be able to explain that item.

Then the only item in which you will find that the Minister has got men under his control is the municipalities and district boards. Please refer to page 110 of the Budget and you will find there 'Deduct amount recoverable from municipalities and district boards for assistant and sub-assistant surgeons Rs. 1,48,000'. Instead of Government paying them, these local bodies pay to Government. Then you will find another item in connection

Digitized by srujanika@gmail.com

with 'Contribution to the Calcutta Medical College'. That is because we have got 18 seats reserved for our students there. The Bengal Government say that they will not take our students unless we contribute. We have no medical college and therefore we want some of our pupils admitted in the Calcutta Medical College. Of course, this will disappear when the medical college is complete in Patna.

I have made the general observations, and if the members of the Council who are the authors of these motions think it still necessary to go through the motions one by one they may do so.

The Hon'ble MR. MADHUSUDAN DAS: There is no reduction possible without upsetting the whole arrangement and without allowing some people to sit idle.

The Hon'ble MR. MADHUSUDAN DAS*: Sir, with regard to the remarks that fell from the hon'ble Rai Bahadur Radha Gobind Chaudhuri I beg to observe that I am not an advocate or a worshipper of the brick and mortar theory. I think that was announced last year. No doubt it used to be the policy of the late Government that unless people are in a position to maintain a dispensary, it is not wise to provide them with funds to build one. A dispensary without a doctor or medicine is likely to serve the purpose of a grave than a place where people may get some assistance for suffering humanity. I have had no case brought to my notice in which people made an effort to organize among themselves a method of giving medical relief to the people of a locality and were in need of help and advice. My own idea is that the best way to start these dispensaries amongst the people is, first of all, to take a hired house and get a man who is willing to start practice there and Government would be willing to subsidize and help such a practitioner in every way possible. To bury money in building is to fix for ever the locality or the site of the dispensary which very often turns out as not suited or most convenient to the surrounding population. It is much better to take a hired house, try to attract the largest number of sick people, failing this, shift to another place. Government would be quite willing to help those who are ready to help themselves. The Rai Bahadur may have my assurance that he will never find me lacking in my sympathy for *Kabiraji* treatment.

*Ibid, pp. 1285-86.

Digitized by srujanika@gmail.com

I have often expressed my sympathy for the system. Two district boards have asked permission to start *Kabiraji* dispensaries; permission has been given to them. The Minister cannot say to the public here is money for *Kabiraji* treatment. I am trying now to induce the *Kabirajas* to fall in with our system and to give us a chance to inspect and examine their work. Neither I nor anybody else having the responsibility of any office can distribute public funds without being convinced that their use will benefit the public. My friend over there ought to know some facts which are within his knowledge. He knows I am trying my best to organize a system but till that organization is complete I am not in a position to say that I am satisfied, and I cannot certainly make any promise with regard to that in this Council.

The Hon'ble MR. MADHUSUDAN DAS*: Sir, they are required for the whole year because they have to do different kinds of work. First of all from September to March they work as vaccinators and are required for supervision of vaccination work and preparation of monthly returns. Then from April to August — when there are outbreaks of small-pox — they are required for special vaccination arrangement connected with epidemic diseases. They are required by the Civil Surgeons in their own districts for office work, returns, preparation of annual vaccinating indent at headquarters, and arrange for vaccinators' returns in September and examination of vital statistics. There are different rates of pay. They have to work at a certain time — and if I may use such an expression — active field work, and then they have to do what may be called tabulating and other kinds of office work and consequently their services are required for the whole year. Their duties are of a peculiar character. They have to go round from place to place and to find out whether vaccination work has been properly done. The vaccinators are a very large body of people and they do work on a very small remuneration. They are paid on something like contract system. Some of them only are employed. When there is no vaccination work for those who are employed as a part of the staff they have to do other work also. Consequently there is every chance of these men not doing their work properly and consequently inspection is very neces-

*Ibid, pp. 1307-8 (On Public Health).
Date of discussion — 10 March 1922.

Digitized by srujanika@gmail.com

sary. It will be seen that this work requires supervision. It would be a waste of money to reduce the inspecting staff in a case of this nature, for it would encourage neglect of the work by the vaccinators. I know there is a feeling with regard to some departments that we are increasing the staff of inspectors and subinspectors; there is a charge that the expenditure on inspection and supervision is continually increasing whereas the work to be done is neglected and work itself is sacrificed to an undesirable and unnecessary expenditure on inspection and supervision staff. I do not think that the charge can be reasonably brought against all these men who have to go round the villages to find out whether the children have been properly vaccinated and examine them. Then they have to report as to how many cases of vaccination have been successful and how many cases have not been successful. The detailed account of work is necessary. They are to find out the statistics and from that they have to judge whether the vaccination as a preventive measure is being proved to the people -- whether people are gaining more and more faith in the system. All this is necessary and I am not prepared to cut down the amount alloted to this and I hope the hon'ble mover will see his way to withdraw the motion.

The Hon'ble MR. MADHUSUDAN DAS: I may mention, Sir, that a committee was appointed. They have suggested an organization which would have in it a machinery, I mean a body of men, to supervise everything relating to public health, and the idea is that this branch should be made over to the district boards. When this is taken over by the district boards, the district boards being local bodies, they will be better able to supervise and control. I hope when this is introduced, hon'ble members will see that these people are made to work better and with greater care and give us more work.

The Hon'ble MR. MADHUSUDAN DAS*: Sir, I think the Secretary has given the hon'ble member all the information we have on the subject. As it is, we cannot undertake now that these two schemes will be amalgamated. Both the departments deal with human beings -- that is the common element — but one has to deal with a healthy body and the other has to deal with a diseased body; one tries to prevent disease in a healthy body,

*Ibid, p. 1313.

Digitized by srujanika@gmail.com

the other tries to cure a diseased body. Consequently there must be two different trainings. People who come out as assistant surgeons have to be trained, and they get additional training for qualifying themselves for service in the Public Health Department. It is no doubt included in medical science but altogether a different branch of it. If the hon'ble member wanted to know whether, say for instance, surgery and medicine can be combined together — they can be in some way but at the same time they are two different branches of the art of healing, not preventive but both curative, and yet with regard to a proposal of this nature to put them together is not possible. If the hon'ble member means that both departments should work under rules framed by a general organization, the object of which is to secure public health, that will be done, and the head office, i.e. the Minister of Local Self-Government, have in contemplation a scheme and a good deal with regard to that scheme, in fact all the information with regard to the scheme has been given by the Secretary. Under the circumstances if more matured decision is needed, all that I can say is that the Government is not in a position now to give a pronouncement of a more decided character. As is natural, till a final decision has been arrived at, it is difficult for Government to give any definite answer and the hon'ble member will, I hope, remember that Government is very different now from what it used to be, because the present Government has to consult the wishes of the people, representatives of the people and again their representatives in the Council. A committee appointed from amongst the members of this Council have given their opinion — their opinion deserves consideration and the opinion and criticisms that come from outside have to be considered, and Government has to give a definite and final decision and this takes time, and I hope the hon'ble member will see that it is not possible for Government to commit itself to a decision which really ought to be the decision of Government as suggested by the public. In the light of these facts I hope the hon'ble mover will see his way to withdraw the motion.

The Hon'ble MR. MADHUSUDAN DAS*: That is very difficult for me to say, as difficult as are the difficulties to which I have drawn the attention of the hon'ble member. A committee meeting is called, the hon'ble members do not turn up, the committee

*Ibid, pp. 1315-18. On Scheme for Medical examination.

Digitized by srujanika@gmail.com

is not attended and that has to be postponed. That committee makes no suggestion. Further inquiries have to be made. All that I can undertake is that there will be no wilful postponement that is unjustifiable, and as regards when, if the hon'ble member wants a date or month I cannot say. But I should say that there need not be any very great delay — may be within two or three months. I hope before we meet again next year, Government will be in a position to give the information as to its final decision.

The Hon'ble MR. MADHUSUDAN DAS: Sir, a certain number of men have been appointed to do teaching work and also doctor's work. Their duty is to deliver a certain number of lectures, teaching them simple elementary principles with regard to Hygiene and other things which are very useful for human existence. Now, I have always felt, Sir, and the feeling is growing stronger and stronger in my mind. I feel that education has always been defective. Man has a body and a mind. My Hon'ble friend on my left takes charge of the mind and leaves somebody else to take charge of the body. Hitherto the system of education pursued in India under the auspices of Government was to develop the mind. Within the last few years, perhaps, gymnastics, football and other things have been introduced but not exactly as a part of the curriculum of study. They could be. But very often no notice is taken of this fact — a fact which is not possible to deny — that it is no use to have a healthy mind or a well-equipped mind unless there is a healthy receptacle of the mind — a healthy body.

Having been a sickly man all my life, I have always felt the value, importance and the absolute necessity of having a strong healthy body which would be a tool in the hands of the mind to execute and carry out its mission in this world. I have found graduates coming out of our Universities with flying colours but they do not understand the simple principle to avoid illness and what they ought to do to have a healthy body. I have often felt that a mind that has been developed disregarding the requirements of the body is something like a spirit disembodied — a ghost — and as far as I know ghosts can do only mischief and can never do any good work. Consequently I have always felt that it ought to be a part of the educational policy for Government to teach everybody, every girl these simple elementary

Digitized by srujanika@gmail.com

principles as to how he and she would be able to keep a healthy body, would be able to know what food he or she ought to take how much food he or she ought to take, what is good food and how many hours' sleep is necessary; so that at the first warning of the illness the patient himself may know what precaution should be taken.

The system which has been referred to by the hon'ble mover and which has been introduced now — I am giving my personal opinion — is defective in this way that it does not include as one of the subjects of the university examinations the elementary principles of medical science. So long as you do not prescribe this as part of the University curriculum, so long as you do not make it necessary for a boy to know how to keep his body healthy, how to take care of the body in which his mind is lodged — I say so long as this is not included as one of the subjects for examination, the boys will not, the girls will not take any particular care to learn what they are taught. I happened to see the other day one of these men who is engaged in this sort of work and who came to me with a letter of introduction from my friend Babu Ganes Datta Singh; this is the first time I met one engaged in this work. I asked him some questions. These were directed to find whether the boys to whom he lectures took an interest in what he taught. He said at once that till this is made a subject of examination of the University, they will not take any interest which they ought to take and they will not learn with that degree of attention which they should do to benefit by the teaching. Unless people learn a subject, there is no use lecturing to them. As regards the other part of the hon'ble mover's grounds, such as examination of the health of the students, sending letters to the parents and how far the parents take notice of these and whether these recommendations of the doctors receive any attention of the parents on these matters I can say nothing and I am not prepared to give any opinion on the matter. Certainly I am of opinion that every Government ought to do something to teach boys how to be healthy. On the other hand you find the system of education defective in not teaching them anything about mind, you meet with some young men who come out of the university with flying colours and yet if you question them you will find that they have not read even a page of psychology. They leave the University without knowing

Digitized by srujanika@gmail.com

that they have got a mind. These are the two defects. It may be that they have got a mind. It may be that my criticism is due to the fact that I was brought up under a system of education in which a man was bound to know psychology, moral philosophy and a certain portion of metaphysics also. In those days they had to know that they had not only the body but they also had a mind and they had to learn certain moral principles. In the present day educated men come out of the University without knowing that they have to care for the body and they have to care for ethical principles. These are my personal opinions. As regards the other part my friend Mr. Hallett will advice as to how far the other portion has proved useful. I am not in a position to say anything on that point.

The Hon'ble MR. MADHUSUDAN DAS*: Sir, I confess the truth that I myself have not been able fully to understand, much less to appreciate, the system in which the account of this department is kept. The reason for this — what I should say the reason for this defective system — is not to be sought within the four walls of the Public Works Department, or within the four corners of the books of the Public Works Department. If I may say so, Sir, that when we go to the accounting of expenses by Government there are certain persons — names familiar to all of us — but the exact connotation of these words not known to us, and these officials are Accountant-General, Auditor-General and they are all generals, Sir — generals who command, as military generals do, in not allowing us to have our say in the least. You must keep your accounts in such and such a way, and on such and such lines and they must be prepared in a way which would be acceptable or convenient to the Government of India to understand. Consequently as if it were the accounts of the Public Works Department have to be, if I may use such an expression, squeezed into that particular shape. So I shall try to make it as intelligible to the hon'ble members specially to the hon'ble member who asked me a question just now, as far as it is possible for a lay man like me to make it clear. The hon'ble members will please remember that there are five divisions in this Province and these divisions are not named just

*Ibid, pp. 1428-32. Date of discussion — 11 March 1922. On Budget demand — Establishment.

Digitized by srujanika@gmail.com

as the division for general administration purposes are named, but they are named as circles and they are the Son circle, Gandak circle and the Orissa circle. Each circle as if it were ruled by a local official who is at the top of local staff of each circle and he is called the Superintending Engineer. All these three circles belong to the Reserved Department. There are two circles Eastern and Western which belong to the Transferred Department. The hon'ble members also know that irrigation is a reserved subject, that is to say, in the three circles which I have called reserved circles there are also works that are to be done which works are roads and buildings. Of course in the transferred circles there is no irrigation. Then there is this thing which Mr. Bremner has stated in a most justifiable tone that they have been actually held responsible for what is spent in the Sanitary Department. Now when you come to the reserved circle you have some people whose services are not used exclusively in working the irrigation branch only, but are also used for working the roads and buildings which lie within that circle. You will see for accounting's sake there is the *pro rata* system. There are two circles and again there are three other, that is, altogether five and they have to make the *pro rata* allotment of the establishment expenses.

Now, secondly it is necessary because the Accountant-General and the Auditor-General say that you must keep your accounts in such a way. So, the accounts, as they are published, do not generally represent actually the accounts as the accounts of the establishment, because though the *pro rata* may show for the purpose of accounting, it is absolutely difficult and impossible. Now, take the irrigation department. There is a man there who is to look after irrigation, who is to look after embankments, and he has to make buildings. Can you make a *pro rata* assessment of his work? Look at the Transferred Department. Of course the transferred establishment is shown there, and, as Mr. Bremner has said, there we have also the Sanitary Department. Now Babu Ganes Datta Singh has said that the buildings and consequently the establishment ought to be reduced. Exactly so. We had an architect and we have dispensed with his service We are trying to reduce the Sanitary Department; in fact one of the Executive Engineers, who was getting Rs. 1,000 a month — I suppose within the last 8 or 10 days we have

Digitized by srujanika@gmail.com

dispensed with his services. There are files pending to do away with the temporary establishment. I do not think my hon'ble friend will say that we are actually sleeping over our duties.

The Hon'ble MR. MADHUSUDAN DAS: I may say that we are trying to arrange matters in such a way as would enable us, if possible, to do away with the service of one Superintending Engineer. This is, Sir, a big question. The Government of India's intention is — and this has been expressed in a circular letter from that Government — that some, if not all, of the works that are done by the Public Works Department should be transferred to local bodies and district boards. Consequently, the Public Works Department can be transferred to the district boards, we are not in a position to say anything. Of course, there are advantages in regard to them, but I need not trouble the Council with all the detailed conditions laid down by the Government of India. One of the conditions is that each district board should be requested to state what responsibility they are willing to take. Then, before that, a good deal of spade-work has to be done to find out what can be transferred, to find out from each district board what work they are going to undertake. It will be necessary to have an officer, who would be styled Inspector of local works, to be appointed. The hon'ble member will kindly remember that this transferred Department has been in existence for a very short time, and I suppose there are certain things which lie beyond the power of the Minister. He must wait till what works can be transferred to them. The Government of India's wishes must also be ascertained. As I have already pointed out, the Sanitary Department in no way belongs to the Public Works Department. The Sanitary Department was retained so long, as also the Architect Department, because it was expected that there would be the university buildings; but that idea has been abandoned. Consequently, they are in the direction of reduction. An attempt is being made actually within the next eight or ten days to effect reduction in the Sanitary Department. These things are being done gradually. You want to cut down the provision of Rs. 13,52,952 but how are you going to cut it down? Of course that is shown in the Transferred Department, but how can you reduce it? This is a matter over which a little patience is necessary.

Digitized by srujanika@gmail.com

The Hon'ble MR. MADHUSUDAN DAS: All I can say, Sir, is this. I do not think I have made myself intelligible to my hon'ble friend Babu Ganes Datta Singh, because his reply shows he expected a great deal more from me than I have been able to accomplish. I do not say that I shall not be able to do that or that, I have done all that any man could have done. Perhaps I have done the least that could be done by any other man. I would ask my friend just to bear this fact in mind that this system has been growing and has grown for at least half a century. If my hon'ble friend has seen an old temple over which stands a banyan tree or a pipal tree, which was once a tiny little thing but which has now grown itself and its roots now encircle the banyan and the temple — now that has been the state between irrigation and roads and buildings. That has been the state of things for fifty years perhaps. It is no more any easier to separate the temple and the banyan tree, keeping the banyan alive and the temple intact; it is equally difficult to separate the two branches of the Public Works Department and keep each alive, because it is not in the power of the Minister to say, I must kill the irrigation branch, because it is not mine — just as, if you want to kill the banyan, some Hindus will say 'This pipal tree is holy, you must not kill it' as other will say 'The temple is holy do not destroy it'. That is the exact difficulty in my case. I wish to say that I undertake to do my best, but the fact will also have to be taken into consideration that a portion of this temporary establishment was maintained in the hope of the university buildings, in the further expansion of the Capital. Those hopes have disappeared and the temporary establishments maintained for the purpose are being gradually dispensed with. I may mention further that I have with me files pending for dispensing with the services of temporary hands, but I have not been able to do so, simply because the files need some further information before definite action can be taken, e.g. as regards the permanent staff, who should have the better claim, etc., and my friend does not know perhaps that considerable time has to be devoted sometimes in getting to the bottom of the file to obtain some information by searching through papers as old as five or ten years as most of the officers present here know of it. I, therefore, appeal to my friend that these considerations should have weighed upon the hon'ble members' mind before they arranged to bring any charge against the Minister. I say I am always

Digitized by srujanika@gmail.com

open to be judged by my countrymen, but before they do that, I hope they will also consider the extenuating circumstances in my favour.

121. Appreciation of Mr. Montagu's Services*

The Hon'ble MR. MADHUSUDAN DAS: The words which feel from the missionary gentleman remind me of the words of Lord Macaulay who laid down in distinct terms in his peculiar eloquence that the great object of England's administration in India should be the elevation of Indians to a standard of civilization in which Indians will realize and fulfil the responsibilities of a civilized country. These very sentiments were repeated from the platform by a person whose eloquence has not been surpassed or even heard in India; and few people in England have proved better orators. Need I refer to Dr. Duff who said that the mission of England in this country was to raise the people? I am glad to note that those sentiments have been reiterated by a missionary gentleman in this Council. Those were the objects which were set forth by the Englishmen when they first took the responsibility of starting administration in this country. Is it any wonder that the Indians naturally expected that the hopes which had been held out to them by the founders of the British administration should be realized? These hopes had been cherished, embittered, dashed to the ground for more than a century and a half. It was left to Mr. Montagu to revive that object — that magnificent and glorious object — and put it before the English nation in spite of fierce opposition and bitter criticism — to usher in a Scheme which the nation as a whole accepted. What nation is there that has not in it a dissenting voice? Now a wave of disappointment and regret has passed over the whole country. The sentiments, that have found expression here, have been repeatedly echoed in several legislative councils and the air has carried them throughout the country. What does this mean? I do not think a statesman who looks into the future of a country could think of greater satisfaction, any greater reward than to realize and feel that the scheme which

*Ibid, pp. 1496-98.
On 20 March 1922 Narsu Narayan Sinha moved a resolution when Edward Samuel Montagu, the Secretary of State for India, resigned from his office.

Digitized by srujanika@gmail.com

he started has been so well appreciated by the people and their representatives in the several legislative councils and that this appreciation by the legislative councils would naturally bring to him the assurance that there are people in the country who will put their heart and soul to make this Scheme a success. At the time when these Reforms were introduced and subsequently, the country was divided in opinion. There were the Moderates and the Extremists, there was a class of people who thought that this was actually a very niggardly gift — niggardly concession; but the recent disturbances, the recent state of the country, the recent political opinions for a Utopian state of things which have shaken the country to its foundation in certain respects have shown the wisdom of the limitations which the Reforms laid. Sir, it is not our duty nor would it serve any useful purpose to transgress the limitations which you have placed as regards the speeches to be made. There is no doubt that Mr. Montagu's services as Secretary of State are not available to us any longer, and the very fact of his resignation and that his services in an official capacity are not available to us has in certain quarters produced a misgiving and apprehension that this will bring on a new policy — a policy of retrogression — relapse to a state as we had before. I do not think we need fear any such thing. My reasons are that Mr. Montagu has led the people to believe what their rights are, and that the people realize the value of their rights will be seen here specially during the discussions on the Budget. It is not likely that the people will give up their rights. When your arms have developed muscles which are strong enough to give a blow, it is not in the power of anybody to disarm the work of those muscles. The rains come down and make the land fertile. The land improves and produces corn that is fit for food of gods and men; it also produces thistles and thorns: so has the Reforms produced results; but if the clouds which give rain are dispersed by the sun, the effect on the fertility of the land is not lost and the land and the corn will not disappear. The rain has given it a new life and new power of progress, and India is not unlike this, that is my view. But on the contrary, if any such policy of retrogression is adopted, the civilized world will have every right to say that Mr. Montagu was the despotic monarch of the whole English nation and the whole English nation was ruled by one man and as soon as he resigned, the policy of retrogression reappeared. If he is really such a power-

Digitized by srujanika@gmail.com

ful person in the English nation, his services will be available to us on the opposite bench and he has promised that he will give us every support and everything that lies in his power to bring about the ultimate reform which he had in mind when he launched these Reforms. As regards having a statute here in marble, I believe, Sir, marble speaks very eloquently because the human body is never without its infirmities; at any rate, to err is human. Marble is an emblem of all the excellent qualities of the person and it inspires one with something much higher than the man himself did when he lived.

With these remarks, I fully share in the regret and, I should say the grief, which the whole country experiences and feels on account of this change in administration.

122. Medical Department and Ancient Systems of Medicine*

The Hon'ble MR. MADHUSUDAN DAS: Sir, the hon'ble member at the head of the Medical Department has rightly observed that the use of the word 'affiliated or affiliation' give this resolution the meaning which it is impossible to carry out and he has expressed his attitude — an attitude of sympathy and co-operation — towards the system in clearest possible terms and I fully agree with him that the question of affiliation is impossible. We generally speak of affiliation in connection with educational institutions which are affiliated to a university; that means the two institutions, the institution which is called the university and the teaching institution which wishes to be affiliated to it must have a staff to teach the subjects and examine the examinees on these subjects. To affiliate the ancient system to the existing Medical Department means to ask the existing Medical Department to make arrangements for the teaching and examination and giving of diplomas on these ancient systems. We all know that the medical school here is not and, as far as I know, no medical institution in India is, in a position to undertake such a duty. It has also been pointed out by the head of the Medical Department that there are other difficulties. Sir, the Minister's position is very — what should I say — painful one, rather peculiar. People expect that he should sympathize with

*Ibid, pp. 1506-10. Date of discussion — 20 March 1922.

Digitized by srujanika@gmail.com

the wishes of the people. The expectation is very natural but at the same time some people forget that their expectation is such as must require time. Hon'ble members have noticed a class of ascetics who raise their left arm for 12 years, and I have known cases where this left arm has been lifted and kept up for 12 years. The result is, there is stoppage of circulation of blood, the nails grow and pierce the fingers and the arm becomes very thin. This is due to a certain religious vow. At least this is undertaken in pursuance of a religious vow. When the term of the religious vow is over a certain ceremony has to be performed and the arm has to be brought down to its natural position. Everybody wishes that the use of his arm should be restored to him as soon as possible. But it cannot be done. It takes months to restore his arm to the natural condition. I do not share in the wholesale denunciation of Government in having neglected our ancient system. There is no law preventing people from maintaining their own system. Government never obstructed people. The charge against the Government is that they did not lend to the ancient system the same patronage that they lent to their own system which they brought with them. That charge is true. That much blame really Government deserve. But then, did we do our duty? As a matter of fact, is it not a fact that large donations and subscriptions have been paid by our own countrymen to maintain hospitals run in European methods? Well, the question is this. I, for fear of being misunderstood, for fear of being told that the Minister is not sympathetic, wish with your permission, Sir, to explain to the hon'ble members and to the world outside — the people outside the walls of this Chamber, that the two systems are run and stand on two different foundations. You can have the two systems together, one standing by the side of the other. Government is bound, as I say, to help both systems and to make amends for the past as regards the ancient system. But you must allow the two systems to exist. It is a question of live and let live. Now, for instance, the chief distinguishing characteristic of the ancient system of *kaviraji* is that the student is apprentice to his teacher. Very often the teacher feeds the student, keeps him in his house and trains him — trains him in what — trains him in preparing medicines? He is trained in the preparation of some of the medicines used according to the *kaviraji* system. This takes months and years; some of those

Digitized by srujanika@gmail.com

oils which they use are very good in some cases, but the preparation of a particular oil takes months and sometimes a year. Then you will find that under the Medical Department as it is administered by my hon'ble friend Colonel Austen-Smith, we train up doctors who prescribe medicines for the cure of diseases. You get a prescription, you go to a chemist, the chemist supplies the medicine and you use it. These chemists are called dispensing chemists who get their supply of medicine from outside. Very often — in most cases — the supply of medicines that are used by these dispensing chemists comes from Europe. There is another class of chemists who may be called — I do not know if there is any technical name — manufacturing chemists — the chemists who prepare these medicines. So, you see that according to the European system the profession is divided, and it is but meet that it should be so in Europe because Europe fully appreciates the advantages of division of labour in every branch of science and knowledge. But here things are different. The *kaviraj* is the prescribing man. He is the manufacturing chemist, he is the dispensing mind and, therefore, you will find how difficult it would be — it would be impossible — to set aside a few rooms in a medical school or a medical college where you can train up students who would take months and years to prepare a particular kind of oil. Consequently, that system must stand by itself. Another instance of affiliation you will find in the custom of adoption according to Hindu law. In Europe, the Romans only know of adoption. What is done in adoption? You take a boy from another family, you engraft him in your family. You take two branches of a tree, you graft them together, that is affiliation, but you cannot graft a mango branch on a lichi tree. There must be a botanical consanguinity. That is necessary. The advantage of the *kaviraji* system is, as the Inspector-General has pointed out, that it commands the faith of the people, that it is cheap, and that most of the people have really to be dependent on the system. But there is a large section of the people — I should not say large, perhaps that is not correct — an appreciable section of the population of the country who want the other system. So the want of the whole population taken together places us in this situation. *Kaviraji* cannot say to the English system "you must make room for me and walk out of the country". The English system cannot say to the *kaviraji* system "you make room for me". There must

Digitized by srujanika@gmail.com

be room for both. Then you must take into consideration the financial condition of the Province. There is no doubt that the *kaviraji* is the cheaper of the two. Then we must take into consideration a few other facts that *kaviraji* on account of not having received the patronage of the Government has, as it were, dwindled and suffered as a system of science and knowledge. On the contrary the other system, apart from the fact that it has received Government patronage in this country, has been making progress in Europe not under the support of Government only, but on the inspiration and stimulus of love of science. Consequently, no wonder while the European system is in progress everyday, whereas the indigenous system has become, as it were, not a current of knowledge but suffers from stagnation, and has suffered from stagnation for a very long time. Consequently, a great deal of trouble should be taken to bring it abreast of the time. The two systems must be appreciated. I remember a saying of the Bible " try all things, find out what is good in each system — follow the principle of electi ns ". What is good in *kaviraji* let it supersede the allopathic system. If there is anything in the allopathic system let it supersede the *kaviraji* and *unani* systems. That is the rational view. We have to provide means to save suffering humanity being carried away by epidemics and we must try all methods. And the greatest opportunity that has been given to us is in the rural population where there are those people — I have often expressed and I again express my emphatic feeling that they are the backbone of the nation, and it is they who toil everyday and raise money out of the fields by tilling the dry land, parched land; who not only do that, but who supply recruits when Government have to fight battles for the safety of the Empire. That class has been neglected, neglected in a manner for which there is no justification, for which there can be no justification. But I stand very much in need of the help and co-operation of the hon'ble members of the Council and I want to get these *kabirajas* from each village to come up here to learn new things, such as disinfecting drinking water, and then we shall send them back there to be entrusted with duties which they do not do now. This will be an addition to their profession by which they have been able to attend to the ordinary ailments of life and they will be of great assistance to us in times when there are epidemics. I have placed in the hands of the hon'ble members a printed paper which I have just

Digitized by srujanika@gmail.com

got in order to send round those *kavirajas* who are willing to come here, we shall give them every facility. The Director of Public Health is willing to teach them these simple things in three or four days, or, say, in a week's time. Then, again, the hon'ble member in charge of the Medical Department has read out my letter to you; I am trying to put some men in the medical college who are being educated according to the *ayurvedic* system, they will attend lectures in the medical school in anatomy and physiology which are absolutely necessary for any system of medicine, they will thus be simultaneously studying the *kaviraji* system, and the essentials of the science of medicine. Therefore, I hope, the hon'ble members will kindly pardon me if I cannot show them the results as quickly as they wish. I can assure them that there is nothing wanting on my part nor on the part of the Government to do our best; there is no want of sympathy. I can assure you that whether you are for allopathy of whether you are for hydropathy, whatever pathy you like you have Government's sympathy and my sympathy.

123. The Bihar and Orissa Municipal Bill*

The Hon'ble MR. MADHUSUDAN DAS: Sir, I beg to give notice that on the 25th instant I intend to move the Council for the substitution of Mr. Saunders' name as a member of the Select Committee on the Municipal Bill in place of Mr. Dhavle, who is coming away. I take this opportunity of expressing my regret for losing Mr. Dhavle's services, who is a most energetic man. In giving expression to my grateful appreciation of the services that he has rendered to every member of the Council, I doubt not that I am speaking out the minds of all the members that we found in him almost obliging, courteous and indefatigable man. He is an understandable man, and we cannot understand how he manages all the work (hear, hear).

The Hon'ble MR. MADHUSUDAN DAS: I am quite prepared to withdraw the remarks if better remarks can come from the Chair.

*Ibid, pp. 1645-46.

Digitized by srujanika@gmail.com

124. The Bihar Tenancy (Amendment) Bill*

The Hon'ble MR. MADHUSUDAN DAS: Sir, I must confess that I was not present during the whole of the debate on this Bill and consequently I have not had the privilege of following the debate throughout. It has been brought to my notice that an hon'ble member from Orissa has condemned the introduction of the transferability of the right of occupancy. He says it has produced bad results. I have talked to the hon'ble member. What he said, or at any rate what he meant to say, was that in some cases on account of this privilege of transfer facilities offered to the people by the introduction of this clause, some extravagant tenants have got into the hands of the moneylenders to the extent that they have been reduced to the position of landless labourers. Sir, I am responsible for this right. I gladly accept the blame, if it is thought proper some blame should go to the person who had any connection with the introduction of this clause. From the sixties of the last century there had been an attempt on the part of Government at intervals of a few years to give the raiyat the right of transferability of his occupancy, but every time an attempt was made to confer this boon on the raiyat, there was such a strong opposition from the landlord class that it was dropped. I took up this cause and I fought for the dumb poor millions. It was absurd for me to believe that a man, who had been cultivating the land and growing foodgrains on the soil, should be told by the zamindar 'you have no right to transfer it'.

It occurred to me where would be the zamindars if the raiyats were not there? If the raiyats were not there to till the lands, the zamindar will be ruling in jungles over tigers and wild animals. He would never have any opportunity of ruling over human beings. That was my view of the situation and I

*Ibid, pp. 1699-1702.

On 22 March 1922 H. McPherson introducing the legislative business said: "this was a step to amend the Bengal Tenancy Act. Periodic revision of agrarian laws was necessary to keep abreast with changing circumstances in relation to the tenant and the landlord". Bihar Tenancy had not been amended since 1907, he said. The bill deals with many subjects:

i) The question of rights in trees.
ii) The transferability of occupancy rights.
iii) The improvement of the rent suit procedure.
iv) The extension of the certificate procedure.

Digitized by srujanika@gmail.com

consider it my sacred duty to fight against all opposition and I am glad now to say that the hon'ble member who opposed me in the Bengal Council brings forward the present Bill with this transfer clause. In connection with this right of transfer of occupancy rights, I watched the result of the new law; I watched the working of it in Orissa, and now I am convinced that both zamindars and raiyats look upon it as a blessing. The zamindar did not understand at the time that it was to his interest to have such a right introduced or conceded to the raiyat. He never understood that once this right is conceded to the raiyat the lands must change hands and perhaps on the same lands he will get four times, five times, may be ten times the transfer fees and every time the transfer fee will be higher than the prior one received. My reason for supporting this was that land is not growing: population is growing and we can very well conceive a day when the land will not be enough to give occupation to the growing population. Already there is very great stress on land, and therefore I thought a portion of the population — the rural population — must be drafted to other occupations of life — industries and other occupations. A piece of land — say 5 acres — belonged to a family, the family at the time consisting of one *paterfamilias* — father, mother and two children, in the fourth generation the family which consisted originally of four members becomes a family of 16, but the land does not grow, consequently in case one of the members of the family wanted to go somewhere or to start some other work, supposing he wanted to become a carpenter or a blacksmith or to go to some other place to work in any industrial undertaking, and he wanted a little capital, he should be given the opportunity to sell his share of the land so that he may have a little capital to start with. That was my idea. Well, I have watched its working in Orissa. Of course when you are going to legislate you cannot foresee all difficulties that may arise in particular cases. That is the difference between a codified law and a common law or a judge-made law. Where you have judge-made law, as they have it in England, the principles are laid down, the judge finds a particular case, he studies the *ratio decidendi* of the case and applies it to the new facts that come before him keeping in mind the cardinal principles which regulate the decision. But when you have codified law the legislature makes a law suited to a particular class of cases which the legislature had in view at the time and the

Digitized by srujanika@gmail.com

result is, as it should always be — as men are not prophets — that it does not take notice of cases which sometimes arise which were beyond the ken of the legislature when they were legislating or discussing on the law. The result is that when these cases come up before the courts, the courts distinguish between the case before them and those provided for in the code, the result is that the legislature is forced to amend the law. This is the difference between England and India — the codified law and judge-made law. I know there are difficulties which the legislature did not foresee. The last case I was engaged in was a case which I argued before the Chief Justice partly because my senior was the late lamented Dr. Rash Behary Ghosh. Certain difficulties had arisen. What the right of transfer having been conceded to the raiyats had produced is that the raiyat is not now dependent on the sweet will of the zamindar. The will of the zamindar is not always sweet. What he fought for everywhere — in the Council of Bengal and in the Council here — is "you must not touch my will". It must be above the reach of Government. What the zamindar claimed was his free volition and he wanted that volition to be volatile volition which cannot be touched. The law has taken away the volatile character of the zamindar's volition and he is now paid the price of it. It might be necessary in the light of particular cases to make amendments from time to time. But the real question is this — whether the right of transfer is a right which ought to be given to the raiyats and he should not be deprived of it or whether it should be left to the volatile volition of the zamindars. I have come to know that in some places most of the lands transferred go to people who intend to become cultivators. In fact we find — say for instance in the Government estates in Khurda, I believe there are figures to show that the land — naturally this will be so. As a matter of fact I have noticed especially in Orissa, that men go out, start life on some trade or industry, make a little money and come home after working in some factories in Calcutta, and as soon as they come they want to buy some land. Generally, these are the people who are almost everywhere eager to invest on land. At any rate I hope I shall never be accused of having introduced a measure for which I have earned the curse of millions. Millions in Orissa will tell you that I have not earned their curse.

Digitized by srujanika@gmail.com

125. The Court-Fees (Amendment) Bill*

The Hon'ble MR. MADHUSUDAN DAS: Sir, it was not my intention to speak at all on this simply on the ground that I am not well today; but certain remarks have been made by the hon'ble member who introduced the Bill in his speech which I think are sufficient reasons to induce me to speak. The motion before this House was that this Bill be referred to a select committee. A reference to the select committee means an admission that the text of the Bill, the contents of the Bill require careful examination and a closer examination that it cannot possibly receive in the full House. So any reference in the debate to the particular provisions of the Bill means really to anticipate the uselessness of a select committee and it defeats the very object with which the provision for referring Bills to a select committee was introduced in the rules. Questions which ought to be debated at the present stage should be of a general nature touching on the principles which underlie the taxation which this Bill means. So naturally, Sir, we are driven to this single question — is court-fee a legitimate object for taxation when the administration of a province is in need of funds? During the debate a good deal has been said with regard to the expensive and costly nature of the administration and comparison has been instituted with the administration of other countries outside India and also with the administration of other provinces inside India. I am inclined to think, Sir, that these questions are not at all relevant. For this reason it should be prudent on the part of this Council always to limit its discussion, and to confine the debates to matters which are within its power. Is it within the power of this Council by any measure of retrenchment, by any scheme which we may invent for retrenchment, to recast the administrative machinery in such a way that there would be retrenchment in every part of the machinery? Can we give it a small fly wheel, can we exchange or substitute a cog-wheel for any part of the machine? Is it not a fact that we have in our budget certain items which are marked as non-voted? So the question reduces itself to this that it is not in the power of this Council to recast the whole machinery, to extend the pruning knife of retrenchment to every part of the machinery. We may wish for a larger share of potentialities, but in practical politics it is better to confine our-

*Ibid, pp. 1753-54. Date of discussion — 24 March 1922.

Digitized by srujanika@gmail.com

selves to actualities and not dream of potentialities as this. It might be within the power of some one here to introduce an administration which would reduce considerably the cost of administration, but certainly we have not got the power to do that. Does our power extend beyond making most eloquent criticisms? However eloquent it may be, however full of logical acumen it may be, constituted as we are, what should be our endeavour, what are the means left to us? That is the question. Therefore the only question what we should take up is this: whether the court-fee, which is only a tax on the litigious propensities of a certain class of men, these may be litigious propensities or these may be necessary for the redress of a wrong inflicted by others — the question is, is this a proper subject for taxation? I submit that this question can only evoke one answer, and that is, it has been so in India ever so long. Not only that but such is the desire in certain quarters, a keen desire, among a certain class of men to indulge in the luxury of litigation and these are the people who are required to pay this tax. I dare say in certain cases where perhaps a man goes to the court to seek redress for wrong done to him — such wrong has been perpetrated by some of his powerful enemy — and in a case of this nature the court-fee presses very hard upon the man, because he is oppressed by his powerful neighbour and needs protection; he wants to have his wrong redressed and when he goes to the court of justice to have redress, those who oppose the Bill say "here is a case where you have a man to have redress of his wrong committed on him but he cannot have redress". These cases are not many and even in those cases the law provided for suits in *forma pauperis*, under which one can have redress in court without paying any court-fee. Of course whether provisions as laid down in the Bill should be accepted by the select committee or not that is a different question. Probably the select committee might run their pen across every item and might substitute other items as fit items for taxation. A general principle of taxation is this, that taxation of a direct nature, the incidence of which falls on everybody including the poor, is to be avoided by every prudent statesman. It cannot be said that the court-fee touches the whole population. It touches only a class of people who really want to have certain grievances of theirs, real or imaginary, redressed and, Sir, very often, it really gives an opportunity to those who sought it as

Digitized by srujanika@gmail.com

an opportunity for indulging in feelings of vain retaliation of the worst type. A reference has been made to lawyers to which class I am proud to belong. I am not ashamed of being a lawyer, but at the same time lawyers are paid not because they give in return a piece of stamp but they give in return a good deal of advice — and erudition which cannot be had very cheaply in the market (hear, hear). I know there are people also who really rejoice in carrying on litigation. I know this is within my personal knowledge, I know of cases where lawyers earned good fees because parties were determined to fight. I have got myself as much as between twenty to twenty-five thousand rupees as fee in a case for a piece of land which would not measure even half a bigha. Well, people of that stamp must pay, let them pay, make them pay, to the nose for they are very anxious to have the luxuries of litigation. But my chief object in standing here to speak a word in support of Mr. McPherson's motion is this, you will find in that motion he refers to the needs of the Ministers for their wants and I hope hon'ble members will bear in mind that this additional revenue will give some relief to the poor millions who suffer from cholera, small-pox, etc.

The Hon'ble MR. MADHUSUDAN DAS: Well, I speak here not as a pleader of Mr. McPherson whose brief I hold, but I am addressing on behalf of the sick and the poor in the country and for the illiterate mass, that is my object. The administration of the country has been bad, it has been run on lines which you cannot justify. Granting all that, the cost cannot be curtailed, it is not in your power to do so because you have got control over only a part — the transferred subjects. Then the question is this — will the hon'ble members allow the poor mass in the mufassal to die of cholera for want of medicine because they cannot come and represent their cause in the Council? Or would you allow this additional income and thus make your countrymen — the poor men — healthy? People die of disease, people die of cholera, people die of epidemics, but may I tell you, Sir, and to the hon'ble members of the House that these diseases are so powerful, that they produce drastic effect because the vitality of the people is low. Poverty eats the vitality of the people. What is required to improve the situation? You must improve their income, you must place them in a better position. Should you not have funds to develop the mineral resources, you

Digitized by srujanika@gmail.com

must have funds to develop these mineral resources? I have always said in this Council and I will repeat again in this Council Chamber and outside as long as I live that unless you will develop your industry you cannot raise the value of the hand. Then, Sir, in order to develop these industries you want the spirit of enterprise. There must be a certain amount of risk. We all know that there are two classes of parents among the poor people. One says "I will not educate my boy, let him go to the field and he will bring two annas", while another says, "No I will mortgage my land and I will educate my boys and then I am sure the prosperous day will come in". Which policy do you wish to follow? Take to enterprise and develop the spirit of enterprise because there is the treasure which nature has hid for your benefit in her bosom but you must develop the spirit of enterprise. As to the retrenchment committee there is so much to be done in the way of developing the industry of the country that even if the retrenchment committee succeeds in retrenching something that will come in as an addition, but I do sincerely implore and beseech the hon'ble members of this Council that we must develop the spirit of enterprise and increase the vitality of the poor. We must save them from cholera and plague, etc., and make them healthy and strong people. If we do not do that you cannot develop industries and the result will be as I have seen in Orissa that labourers will come from Karachi and Bombay for higher wages but the poor men of the place will get only four annas. Of course as regards the particular item we need not discuss it and to tell you the truth I did not see this Bill till today, but I know there will be a select committee who will see that the people who ought to pay do pay and the poor crying tenants are not required to pay. With these remarks I support the motion.

126. Appointment of the Hon'ble Khan Bahadur Khwaja Muhammad Nur as President of the Legislative Council*

The Hon'ble MR. MADHUSUDAN DAS: Sir, I have to express the satisfaction and gratitude of this Council to His Excellency

*Proceedings of the Legislative Council, Bihar and Orissa, 1922 (Dec.), p. 30.
Das spoke on the issue on 4 December 1922.

Digitized by srujanika@gmail.com

the Governor, firstly for having decided to have a non-official member of this Council as President and secondly for having selected a gentleman whose public life and services are so well known. Sir, I think we made our acquaintance first when you represented Orissa and Chota Nagpur in the old Legislative Council of this province. Since then I have had frequent opportunities of knowing your interest in public matters and the ability with which you have conducted the duties entrusted to you or the responsibility which you had taken upon yourself, and it is clear that your services have been valuable to the general public. It very seldom falls to the lot of a man to earn the appreciative remarks that have been made by the Leader of the House; you have earned the respect both of the Government and the public. You were justly christened by your parents "Nur", which means light; and you have no doubt shed ample light in all your public activities. Reference has been made to the loss that the non-official members will feel in being deprived hereafter of the benefit of your advice, but the advice which you will be able to give to us to conduct the deliberations of this House on proper lines will be of even more value than the advice which you have given in the past. We certainly hope that you will shed a light in this house which will light up all dark corners and bring into view only those points which are relevant and necessary in the deliberations of the Council in all matters which are conducive to the development and progress of the country. With these remarks I fully endorse the text of this resolution.

127. Withdrawal of Notifications regarding Santal Parganas*

The Hon'ble MR. MADHUSUDAN DAS: I bow to your ruling, Sir. I have very carefully listened to the eloquent speech of

*Ibid, pp. 203-4.

Rai Bahadur Dvarikanath moved this resolution on 7 December 1922.

"This Council recommends to the Local Government that they may take immediate steps to bring about the withdrawal of the Santal Parganas district from the operation of Sections 52A and 71 of the Government of India Act."

Santals inhabited this region. They were far behind the Bengalis in civilization. Accordingly by Act XXXVII of 1885 these Parganas were formed into a district and exempted from the operation of general regulations and acts. It was a Non-Regulation district. The contact between Government officers and people was direct. There were no regular Police.

Digitized by srujanika@gmail.com

the Hon'ble Leader of the House, especially as he expressed a wish before delivering his speech that I should have an opportunity of hearing it. But during the whole length and breadth of the speech I do not find any reference whatever to any reason which justifies this kind of administration of the criminal law (hear, hear) as was illustrated by the case referred by me. Is the law responsible for it, or is it the place where particular officers are sent to be trained in a particular despotic manner. If there is a special training given to certain class of officers are they trained there to be High Court Judges or District Judges? No reference has been made to the criminal administration.

The Hon'ble MR. MADHUSUDAN DAS: Well, the Hon'ble Leader of the House in his speech said that when I made that remark I did not know of my high destiny, and as soon as I came in my friend here on the other side said, "Are you going to speak or have you been muzzled by the few thousand rupees salary you are getting?" So this is the position which compels me to offer this personal explanation.

The Hon'ble MR. MADHUSUDAN DAS: I can assure the hon'ble members of this Council and the Hon'ble Leader that I do not look upon this as a high destiny and that I entered the Council to serve my country (hear, hear).

I came here, I entered the Council, to serve my country and whether I am here in this bench or in the bench opposite to this, so long as I serve the country I am not to be muzzled for any sum of money. I was told by the Hon'ble Leader of the House he is a very old friend of mine. In fact, on one occasion he introduced me to a person saying that I was one of his oldest Indian friends. Some of my friends here said to me this morning that my being in the Government has changed my angle of vision and my views. Of course, I find in certain matters, I have changed my views and seen the better part of the Government and in the other matters the enchantment which distance lends has disappeared and a closer touch with the Government has shown to me grosser defects of the Government. That is all my personal explanation. As regards the merits of the resolution I have nothing to say further, but I want to inform my friends that I am not a man to be muzzled for any sum of money.

Digitized by srujanika@gmail.com

The Hon'ble MR. MADHUSUDAN DAS: Sir, I do not like to speak on this resolution or to go into an examination of its merits and its demerits. I have just a word of explanation with reference to certain remarks which were made by the Hon'ble Leader of the House referring to me. The Hon'ble Rai Bahadur Dvarika Nath, the mover of the resolution, referred to a case in which a Magistrate who was exercising his powers in that part of the country had punished a son, and sent him to jail for the theft committed by the father who had died during trial. This is not an imaginary case. I had made reference to that case in my speech and Government wrote to me to give the details and the name of the officer. The details were furnished and the officer was severely dealt with. Well, I may refer to another case in which I got help from the Hon'ble Leader of the House, who was then Chief Secretary of this Government, and I dare say he remembers it. In one of the Feudatory states of Orissa a man was tried. This man was a resident of the city of Bombay. He was going to be tried for murder.

The Hon'ble MR. MADHUSUDAN DAS: It concerns them in this way that it shows where Government takes the power to exclude a portion of the country from the ordinary laws the difficulties that arise out of it.

128. Financing of Primary Education, etc., Out of Increased Revenue from Court and Registration Fees*

The Hon'ble MR. MADHUSUDAN DAS: Sir, the Ministers' position is becoming more and more unpleasant every day. Today also the Hon'ble Leader of the House made remarks that we should not suppose that the Ministers will not do their duty. We have got a Bengali proverb which means that if you press a lime too much it yields a bitter extract. So if the officials and the non-officials both attack the Minister I am not sure whether sometimes bitter juice might not be the result. I hope at least

*Ibid, pp. 276-78.
The resolution was moved on 8 December 1922 by Ganes Datta Singh which said, "This Council recommends to the Government that out of the increased revenue from the Court fees and the registration fees at least 25% be spent in addition to the existing expenditure, on the improvement of the primary education, cottage industries, village agricultural propaganda and medical relief and sanitation".

Digitized by srujanika@gmail.com

my countrymen — at least those who know me for sometime — do not believe that I shall ever be wanting in doing my duty or pressing the claims of the dying peasants for relief before the Government. Those who have known my past relation with the poorer classes during the whole of my past life will, I am sure, pardon me if I say that all these demands that come before this Council ought to be brushed aside until serious steps and proper measures are taken to save the lives of the peasants (hear, hear). I once saw a picture in which at the head of the picture was the picture of Queen Victoria and under this picture was written 'I rule over all'. Below that was a picture of a bishop with the words 'I pray for all'. Then there was the picture of a lawyer under which was written 'I plead for all'. Then of a soldier with the words 'I fight for all' and at the bottom of the picture was the picture of a poor peasant driving a plough with the words under it 'I feed all'. That is the class for which I am speaking now. Of course my past relations with the poor tenants of Orissa gave me some experience of their lives. Within the first few months after I assumed charge I have had opportunities of knowing the sufferings of the people — of the poor tenants of Bihar. Education and other facilities are given them to equip them. When you educate a person, you equip him with better knowledge and give him equipments for a more useful life in future. I do not say education has not its value, but I put it to you in this form. Suppose you have to attend a prize distribution somewhere presided over by my hon'ble brother where your children are going to get prizes and if you had at home your father or mother dying of plague, would you attend to your father or mother or go to the prize distribution? The first consideration of the Government ought to be to save the life of the people and a Government that does not consider this is not worthy of the position of Government. If you are losing two lakhs of people every year who are carried away by cholera and other epidemics and each one of them earned eight annas a day, the Government ought to realize that they are losing one lakh of rupees every day, and surely a Government that does not attend to this lacks in the elementary knowledge of economics.

I have been receiving notes from the office that the people must first be educated before they can reap the benefits of the sani-

Digitized by srujanika@gmail.com

tary measures, but then these sanitary measures come from the west. Certainly men do not understand what sanitation means and therefore I always thought and said that you must give them sanity before you can introduce sanitation successfully. Therefore you must treat them as children, have compassion on them on value of sanitary measures. What is required is demonstration in villages. You adopt all these sanitary measures here and neglect the villages. This will not do. You have to go to the villages where people are carried away by cholera and plague. It will not do to send a sanitary inspector and depend upon him. I myself went to a village where plague was raging. I went inside the house where a plague-stricken man was lying, where dead rats were lying and nobody dared to enter the house before. That sort of thing will not do. I know my position and the duties of a Minister, it is to serve the people. That I always understood to be the meaning of the word minister. First he was a *padre* and then the word has got its political significance. It is not realized in that way. If he is not actually willing to serve the people, the poorest of the people and the most untouchable of them, he is not worthy of the position of being a Minister. Well, I say, what we require is money; money and men, men with a feeling for the people, with a heart. It has been said that if the Minister has no money, what is the use of having these Ministers? Well, you can have Ministers and yet save your money. Have honorary Ministers (hear, hear). But you want men to help you. You want money to be spent to save the people. Well, it has been said, my brother on my left said, that there might be the difficulty in granting what the resolution asks for. You expected a fall in the excise revenue. That fear has proved false. The hon'ble mover of the resolution does not know what is the amount likely to be realized from this additional source of revenue. He says whatever it might be, put aside 25 per cent for such and such purposes. That is not as I understand it earmarking the amount. He does not mean to say that you should put aside in a separate place the revenues from court-fees and registration fees and use it for this purpose. That would be earmarking. What he said is, that whatever be the amount, put aside 25 per cent for these purposes. That is what is wanted. I remember very well, and I do not know whether the Hon'ble Leader of the House remembers, that he went up to my room and brought me here to speak on the

Digitized by srujanika@gmail.com

Court-fees Bill and it was then said that the Ministers wanted money. Therefore somebody cried, "If you can earmark this for the Ministers, we will all vote". I think it was Babu Nirsu Narayan Sinha who said this. That transpired in the Council. These are the facts and I am sure Government will take this into consideration when making out the budget and finding or deciding how this additional income is to be spent. Of course I do not like to oppose my brother and his demand for 53 lakhs; he may indulge in these hopes and dreams, but all that I want is very modest; all that I want is that the Ministers and the people should be left to themselves — not interfered with by the old grooves of official red-tapeism (hear, hear). Then they will save more lives with less money.

LEGISLATIVE BUSINESS

129. The Bihar Tenancy (Amendment) Bill*

The Hon'ble MR. MADHUSUDAN DAS: Sir, I wish to speak on this point and what occurs to me is this — that the discussion has reference to a well-known principle of law which is called the doctrine of merger. When a man has occupancy rights, when the landlord who has the superior right acquires an occupancy right the doctrine comes into operation and the result is that the occupancy right is extinguished. As far as I could understand Mr. Kennedy, I remember distinctly he used the word 'revive'. Mr. Hubback made it 'resurrect'. I do not wish to go into the subject matter of the discussion but the question is this, is it possible to revive a right which has been extinguished? The doctrine is not applied only to these cases. You find it applied in mortgages and other cases. Can a thing which is extinguished and is not in a state of suspended animation be revived under certain conditions? Take for instance a very

*Proceedings of the Bihar Orissa Legislative Council, February 1923, p. 46.

On behalf of the Government Mr. H. McPherson brought this legislative business before the House on 7 February 1923 with a view to amending the Bengal Tenancy Act as Bihar Tenancy Act. All agrarian laws of the Province were to be contained in the Bihar Tenancy Act. The amendment was purely formal, in order to give effect to that arrangement.

Digitized by srujanika@gmail.com

simple case. A man is a zamindar and he acquires an occupancy right. Then suppose he transfers that occupancy holding, that very land to the man from whom he bought. Will he convey an occupancy right? I do not like to say any thing further. I thought of speaking these words because a legal principle was involved.

The Hon'ble MR. MADHUSUDAN DAS*: Sir, the Hon'ble Leader of the House has asked our opinion on this section and particularly with regard to the words now being discussed as to what should be the legal aspect of the words. The section, as it stands, supposes that at the time a tenancy is created, the nature of the tenancy, and the purposes for which the land is given are determined at the time. Then comes the question as to what extent the tenant has a right to deviate from the condition and from the nature and the purposes for which the tenancy was created. Then it says "and, without prejudice to the generality of the foregoing provision" which means that it must not materially impair the value of the land. The value of the land may increase by making a certain use of it which is not consistent with the purposes of the tenancy when it was created. An instance was given here of bamboo plantations. So long as the bamboos stand on the land the value of the land is increased, but it is believed that bamboos make the land unfit for agricultural purposes because they strike roots which go far and wide. It cannot be said that that does not impair the value of the land. Then comes the other part of this section "he shall in particular be entitled to grow on the land any crop he wishes". These two clauses must be read together. The tenant's wish which is perfectly unlimited is limited only by the preceding clause which is that he must not make it unfit for the purpose which was determined at the creation of the tenancy, and therefore, it is necessary that after a general clause which gives a free right to grow any kind of crop there must be something to impose the original restriction which was a part of the contract between the landlord and the tenant. It is to be seen that the word "aforesaid" is used. One of the hon'ble members in discussing this question referred to the clause that follows. That cannot be in any way connected with this because we have got the word "aforesaid" and not limitations which follow. Consequently in

*Ibid, pp. 81-82. Date of discussion — 9 February 1923.

Digitized by srujanika@gmail.com

order that the section might carry out the intention which it is the object of the draft of the Bill to secure, and having introduced that general clause which is inconsistent actually with the restriction which precedes it, it is necessary that, if it is intended to have a limitation, the limitation should be repeated.

130. Introduction of Heads of the Budget*

XXII and 32 — *Medical*
XXIII and 33 — *Public Health*

The Hon'ble MR. MADHUSUDAN DAS: Sir, it is my duty to introduce the heads 32 and 33 — Medical and Public Health. The total of these two budgets amounts to over rupees twenty-nine lakhs as against twenty and a half lakhs in the accounts of 1921-22, and just over twenty lakhs in the budget of 1922-23. Part of this increase is due to a re-classification which I shall explain later when dealing with the details of the Public Health Budget, but the chief reason is that the financial position of the province has improved.

The main features of the budget is the provision under the head 32-B — Hospitals and Dispensaries. In previous years Rs. 3,00,000 had been provided in order to give grants to District Boards to enable them to meet the capital expenditure involved in building new hospitals in rural areas. Last year owing to lack of funds we had to reduce this provision to two lakhs but this year we have not only been able to restore the previous figure of rupees three lakhs but have been able to provide in addition rupees two lakhs for recurring grants to district boards for medical relief. This will be distributed among the boards in proportion to their needs, resources and efforts, that is to say in making the distribution we shall take into consideration the population of the district, the cess income of the district board and the amount which the board spends from its own resources on medical relief.

Records and the opinion of the Secretary revealed that in the past financial grants to district boards were not made on any principle but they depended on the influence of the Chairman

*Ibid, pp. 251-59. Date — 15 February 1923.

Digitized by srujanika@gmail.com

with Government. The result of this was that rich boards which disregarded their duty in the matter of medical relief sometimes received large grants while poorer boards where public health did not receive adequate attention for want of funds, did not receive any grant. With the near prospect of having non-official chairmen, it was thought necessary that Government grants for medical relief and public health should be regulated on some principle. It was decided to regulate Government grants in direct ratio to the amount each board spends out of its own resources, but in an inverse ratio to the income of the board. It is necessary that the district boards should realize the importance of medical relief and their responsibility for the lives of the urban population — a matter which has been neglected in the past. It is hoped that this principle will have the desired effect. It is understood that Government should be prepared to make supplementary grants in cases of epidemics in any area.

With the aid of these grants the district boards will be able to work up to the standard of one hospital in each police station which was accepted some time ago when a resolution on the subject of medical relief was under discussion in the Council. It will also enable them to form a public health organization on the lines of that recommended last year by the Committee of the Local Self-Government Conference. The sum now provided should be sufficient to enable some 75 to 100 more dispensaries to be started, provided doctors are obtainable. In addition to this sum of Rs. 5,00,000 provided under the head "grants to hospitals and dispensaries", there are some smaller items which call for mention. Rs. 10,000 has been provided for a grant to a Leper Colony in the Santal Parganas. Already during this year I have given some help to this deserving institution and have given a grant of Rs. 10,000 out of my discretionary grant, while the cost of the acquisition of the land has been met by Government. The institution is being started by a Missionary Society and will be very much on the lines of the Asylum for Lepers at Purulia which is maintained by the Mission to the Lepers in the East and is one of the largest and most successful institution of its kind in India. I visited the Asylum in Purulia and was impressed with the devotion to the noble cause by those missionaries in charge of the work. They were in need of funds to improve the water supply of the institution. I was glad I

Digitized by srujanika@gmail.com

could give them five thousand rupees to take up this work. This I paid out of the discretionary grant at my disposal.

That some members of this Council take interest in this important subject of the prevention of leprosy is shown by the fact that notice has been given of one or two resolutions on the subject during the present session, while some local members have, I know, taken interest in the arrangement for the treatment of lepers in Patna City.

The arrangement for the treatment of lepers owe its origin to a European lady, the wife of a Magistrate. She has always taken a deep interest in the work of medical relief to the poor. I had opportunities of seeing her engaged in this kind of work every morning in my premises when she lived in Bankipore. Since her removal to the City she has taken an interest in the lepers in the City. One of the hon'ble members of this Council Rai Bahadur Purnendu Narain Sinha with his usual readiness to associate in all humanitarian work has associated in this work. I visited the place one morning and I found that the funds had been exhausted completely. I gave a sum of Rs. 200 out of my private funds which I understood was necessary to keep the arrangement going for one month.

Under the Reforms the people are responsible for public health, in which term for my present purpose I include both preventive and curative measures. This responsibility had by law been entrusted to local bodies, the municipalities and district boards.

Sympathy for suffering humanity is a part of human nature as it has been created by God. Absence of it is a proof of the degradation of original human nature, but in the exercise of this sympathy we are apt to disregard our duties to those who are not afflicted with the diseases which are infectious or contagious. In my visit to the place of treatment to the lepers of the city I found that small sums of money were given to lepers to induce them to attend this place of treatment. The result of such an arrangement will be to attract lepers from the surrounding areas to come to this place. This would defeat Government's aim to bring about a segregation of lepers. The experiments and investigations in the treatment of leprosy have not proceeded any further than that disease can be cured in its very early stage. Consequently we have to provide segregation for most cases which

Digitized by srujanika@gmail.com

we meet with every day. The difficulty in this matter is that segregation which means compulsory confinement requires the sanction of law, and the Act as it stands has some difficulties in the way of bringing about this result. This is not the place to discuss those difficulties. There are a class of lepers — specially men, respectable and well-to-do who are not professional beggars and yet these people are a source of danger to the inmates of their family and the people with whom they associate. Some provision ought to be made for the treatment of these persons. It is here that this European lady's arrangement can do most useful work, but the paying of small sums of money to beggars which will have the result of keeping away beggars from established Leper Asylums should be discontinued. It is on this condition that I made a grant of a sum of money out of my discretionary grant which I thought would be enough to maintain this arrangement restricting its operation to well-to-do and respectable persons afflicted with this disease for one year. I should specially ask the hon'ble members of this Council to remember that sympathy for suffering humanity wrongly directed might end in cruelty to the healthy part of the population and we should take every opportunity of helping those self-sacrificing missionaries who devote themselves to this noble work. I hope my countrymen will ere long take up this work and show as much sympathy as these missionaries do to the people suffering from this disease.

Another item under this head is Rs. 12,000, for grants for the treatment of veneral diseases. Such diseases are unfortunately too prevalent, but they are not incurable. The medicines, however, which are required for treatment are, however, expensive and are beyond the resources of local hospitals. Of this total sum of Rs. 12,000, Rs. 6,000 has been specially provided at the request of the Inspector-General of Police so that the treatment may be given to members of the police force. Apart from these items, the provision made under this head merely repeats the provision made in previous years.

I have not the least sympathy with men affected with this loathsome disease and had it not been for the opportunities these men have to injure healthy people, I should not have been a party to this grant. If the Council agrees with me, I should make the patients pay at least a portion of the cost of the medi-

Digitized by srujanika@gmail.com

cine used in their treatment. This rule should apply only to patients who have the means to pay and include the grants made to hospitals for equipment.

Though Government are in a position to provide some funds for the development in improvement of the hospitals in the province, the sums at their disposal and at the disposal of local bodies are by no means adequate. Government must look to private charity to assist and I regret that the appeal which I circulated to all members in the Council has not yet had much result in providing subscription. I trust the members of the Council will assist me in this work.

Another important new item in the budget is the provision of Rs. 38,300 shown in the abstract at the beginning for the revision of pay of sub-assistant surgeons. The pay given to these officers was considerably lower than in the adjacent provinces and proved insufficient to attract recruits, while the members of the service were carefully worked out which, though not as high as that given in Bengal, will, it is hoped, be sufficient to attract recruits and will not have the effect of raising unduly the salaries which district boards have to pay to officers of the same qualifications.

A further reason for an increase in the total budget is the fact that the amount recoverable from district boards and municipalities for assistant and sub-assistant surgeons is considerably less than in previous years. Hitherto at district headquarters the local municipality has been required to meet the pay of the assistant surgeons employed at the local dispensary but in many cases the amount has been reduced while in the case of some of the poorer municipalities it has been remitted entirely. In the case of subdivisions Government in all cases meet the pay of a sub-assistant surgeon but in those subdivisions in which an assistant surgeon is employed, in some cases the whole of the difference between the pay of the assistant surgeon and the sub-assistant surgeon is met by the local body, in some cases it is met by Government, and in some cases, partly by the local body and partly by Government. Various inequalities have arisen and it has happened that those municipalities which have pressed their claims have obtained remissions of contributions while others have not done so. Further, with the increase in the pay of assistant surgeons the amount payable by local bodies was

Digitized by srujanika@gmail.com

considerable and in many cases the payment of these amounts rendered it difficult for them to provide adequate sums for the maintenance of the hospitals. It is necessary in the interests of Government that an assistant surgeon in Government service should be employed at district headquarters and at some subdivisional headquarters, for the assistant surgeon is required not only to have charge of the local dispensary but also to do important medico-legal work on behalf of Government and also to attend on Government officers. In view of these facts therefore Government have decided that it is desirable to remit entirely the contributions recovered on account of the pay of assistant and sub-assistant surgeons at district and subdivisional headquarters. The amount to be remitted amounts to rather less than Rs. 1,00,000 but in view of this remission Government propose to discontinue some of the miscellaneous petty grants which are given at present to these hospitals. The chief result of making this remission will be that local bodies will have more funds available for medical expenditure and it is to be hoped that they will endeavour to improve the condition of their hospitals and to develop medical work.

Two minor new items in the budget are the provision of Rs. 8,000 for the post-graduate courses of assistant and sub-assistant surgeons and Rs. 4,800 for the training of these officers at the School of Tropical Medicine, Calcutta. The post-graduate course is to take the place of the septennial examinations of these officers and its introduction will, it is hoped, have the result of making the service more efficient and of enabling medical officers to keep their knowledge up-to-date. The School of Tropical Medicine was, as the Council are doubtless aware, built largely out of subscriptions raised from the public and generous donations were given by some of the leading residents of this province. In view of these donations a certain number of seats in the school is reserved for Bihar and Orissa, and Government propose to send selected assistant and sub-assistant surgeons to undergo training at this school. The school is doing very important work and in particular I may mention the fact that they are making careful investigations of many of the indigenous drugs which are used by Ayurvedic and Unani practitioners and in this way are combining the knowledge of the East with the science of the West.

Digitized by srujanika@gmail.com

I had the pleasure of a visit to this important institution and the privilege of not only seeing the work done there but also discussing some important problems which have practical importance with the administration of the Medical Department. From what I saw in this School of Tropical Medicine I believe that some day in the near future a temple of concord will be raised there. Here the East and the West, the Kaviraj and the Hakim and the Indian Medical Service will join hands and co-operate in the noble work of alleviating the sufferings of the sick.

One of the works undertaken in the school is to record the action of indigenous drugs on several organs and other parts of the human body. All that we know at present of the medical system practised by Hakims and Vaidas is the curative effect of some drugs in the treatment of certain diseases. But the Indian system does not tell how this effect is produced. It does not tell us anything of how and why this effect is produced. When the results of observations now being made in the Tropical School of Medicine are recorded, the Indian system will rise to the position of a scientific system. I found experiments being made to find out how ill-balanced food promotes deficiency diseases — the most recent discovery of the West.

In other respects the budget does not call for any lengthy comment as the increases under the various heads are mainly normal. It will be noticed, however, that there is an increase under the non-voted head "Salaries — District Medical Officers" which is due to the fact that the Government of India have set free a larger number of officers of the Indian Medical Service for civil medical work in this province. As against this increase there is a decrease under the head "Surgeons" shown under "Voted Salaries". Under the head "32-D — Lunatic Asylum" the budget appears considerably lower than in previous years. This is due to the fact that the European Mental Hospital at Ranchi has now been placed under a Board of Trustees and hence the expenditure incurred in connection with this institution is no longer shown in the provincial budget. The only amount shown under this head is the expenditure incurred on the Patna Mental Hospital and the contribution which this Government will have to make to the Board of Trustees for the Ranchi Mental Hospital on account of the few patients from this province who

Digitized by srujanika@gmail.com

are confined there. A new head has been added 32-E — Radium Institute. During the past year the buildings for this institute have been under construction and will be completed shortly, but during the whole of the past year the Superintendent of the Radium Institute has been carrying on his work and a note regarding his work was given to members of this Council some months ago. Patients are coming to the institute from all parts of India and Colonel Vaughan himself is anxious that the work should be developed. As, however, this institute is for the benefit of a large part of India and not merely for this province, I do not consider it desirable that large sums should be allotted to it from provincial revenues, and I am considering the question whether contributions cannot be obtained from other provinces.

The Hon'ble Minister of a province was affected with a disease which was up to the discovery of the radium treatment considered incurable. The Hon'ble Minister was advised to give up the arduous duties of his office and retire to his home in the mufassal and prepare to meet the certain end of this disease. He was received by Colonel Vaughan who is in charge of the radium arrangement. Colonel Vaughan took up this case and gave him two applications of radium. The result is described by the Hon'ble Minister in a letter to Colonel Vaughan.

"You would be very glad to learn that I am, as far as the doctors here, have been able to make out of danger. All troublesome symptoms are fast decreasing. By curing me you have made a very big advertisement and I believe many would be going to you now for treatment." I only hope other provinces will not only send patients but also contribute towards the maintenance of the institution so that this baby Province might be able to pay the high price which Bengal demands for quinine. In addition to the budget under the head Medical, I may refer also to the head Civil Works — Transferred, and the provision made in that budget for medical buildings. The Council are no doubt aware that a few weeks ago His Excellency the Governor laid the foundation stone of the Darbhanga Medical School and thus the first step was taken towards the establishment of a Medical College for the province. A resolution has, I see, been put forward advocating Muzaffarpur as a more suitable site and if that resolution comes to be discussed, the reasons for selecting Darbhanga will be explained in detail.

Digitized by srujanika@gmail.com

The Hon'ble MR. MADHUSUDAN DAS: I need only say here that the main reason was that Darbhanga has two large and efficient hospitals and thus there is considerably more clinical material than in any other town of the province. Funds have been provided in the budget for the construction of the new school, the hostels and laboratories and for the residences of the teachers; but though these items are included in the budget, the cost is not being met from provincial revenues but from the sum of five lakhs which was generously given by the Maharajadhiraja of Darbhanga to the late Governor and which was formed into a Trust Fund with the Inspector-General of Civil Hospitals and the Secretary to Government in the Medical Department as trustees. The trustees will repay to Government any expenditure incurred on these buildings and also the expenditure shown in the Civil Works Budget for equipping and completing the laboratories and other buildings recently erected at the Temple Medical School and thereby making it fit for conversion into a college. One item I may draw attention to, is the sum of Rs. 11,000 for the conversion of the Pathological School into an Ophthalmic Ward. As the Council know a very large amount of valuable ophthalmic work is done by the surgeons of the Patna General Hospital and a very large number of patients come from far and near for the cataract operation. This improvement of the hospital will benefit the people of the province and will also make the hospital more suitable for the College.

Another item in the budget is Rs. 50,000 for the Cuttack General Hospital. This hospital, as my Oriya friends will know, serves as the training ground for the Cuttack Medical School but the number of beds is small and does not provide sufficient clinical material for the students. The addition of new wards will benefit the people of the district as well as improve the practical experience of the students in the medical school.

132. General Discussion on the Budget*

The Hon'ble MR. MADHUSUDAN DAS: Sir, there is one matter I wish to invite your attention to — I refer to a hon'ble member who does not deliver or read out his speech so that he might be

*Ibid, p. 543. Date 20 February 1923.

Digitized by srujanika@gmail.com

understood by the whole House, if a man or any hon'ble member stands up the addresses, he is supposed to address the whole House, and his remarks might refer to some member of Government as well as to a non-official member and every body is entitled to have his way with regard to any remark made about him in his speech. If the speech is not audible then the result is that the speech which is delivered is reported and it goes out to the world without any repudiation to those references or remarks made about a member of the Government, about the Government generally or about a non-official member. Very often as a matter of fact some of those speeches are read. When they are read and are not audible, the authors of those speeches should not be allowed to make over copies of the speeches to the reporters, because the reporters are supposed to report what they hear and not to copy a speech which is made over to them privately. These rules should be enforced; if any member cannot speak loud enough he is quite at liberty to ask you, Sir, for permission to come nearer and address from a particular place. In Bengal, at one time there was an arrangement — a provision of something like a Padre's pulpit, and anybody who wished could make use of it, and it was placed at such a point in the House that if a member spoke from that place he could be heard by every member of the House.

The Hon'ble MR. MADHUSUDAN DAS*: Sir, I join in the chorus of praise which has been very properly accorded to the Hon'ble Finance Member and the Finance Secretary for the prosperity budget which has been presented to the Council. I wish only to congratulate myself on the ground that I am one of the members of a Legislative Council after the Reforms where the Financial portfolio is held by a countryman of mine who has led a busy life and has been my co-operator and collaborator in public life for several years. It gives me no small pleasure also to observe that the co-operation between an able member of the Indian Civil Service and an Indian gentleman who did not belong to any service is capable of producing results in the administration which would be considered as successful in a province which is the youngest and has a small revenue. It is not my intention to refer, much less to reply to certain remarks which have

*Ibid, pp. 589-95. Date 21 February 1923.

Digitized by srujanika@gmail.com

been made by hon'ble members with regard to those subjects of which I have the control. In old days when there were few elected members, when they had not the right of interpellation, and no right of voting the demands, it used to be the practice to hear non-official members make lengthy speeches travelling over all the subjects dealt with in the budget. That is hardly necessary now. Because separate days are allotted for discussion of particular items contained in the budget. So, I shall refer only to certain general features of the Minister's position, his responsibilities, and the nature of the responsibilities together with the difficulties he has to meet. This is the last time I shall associate myself with the presentation of a budget. The presentation of the next budget will be by my successor in office. Many things which have been introduced in this budget, or at least for which provision has been made in the budget, will not perhaps mature into things of practical use till after I have vacated this office.

It has been said that there was a large surplus and the Ministers should have been allotted a larger share, larger allotments, and my hon'ble brother on my left in his speech stated that he did not know of the prosperous condition of the finances of the province even when he submitted his scheme of projects which he wished to be included in the budget. That was exactly my position. I did not know that things were so bright. The bright horizon was beyond my ken, but at the same time I must say when my dole was given to me I did not rest satisfied and I said that I would not accept this except subject to the condition that I would come in for more grants if there is an epidemic or anything of the kind. Accordingly I had these conditions. But that is not the question. The question for consideration is not the amount of money that has been given for a particular work, or has been allotted to a particular subject for the administration of that subject. The amount is not the real question which should be at issue for the allotment of a particular amount to subjects (which have been throughout called nation-building) does not show that it goes actually to build up the nation. No more is this proposition true than it would be logical or correct to measure the quantity of food consumed by a rich man when in his accounts you find Rs. 10,000 put down for his dinners. Naturally if we go by those figures we should expect that the

Digitized by srujanika@gmail.com

man who has an allotment of so many thousands of rupees for his dinners must weigh three hundred tons. The question is how much of the money spent and manner in which it is proposed to be spent, actually reaches the masses who are in sore need of medical relief and improvement of public health. That is the question. You take up an amount that has been spent in a particular department. The first thing that we should ask ourselves is how much of this amount used to be borne in the budget, before the Minister came into existence, before the expression 'nation-building' was introduced in the Council, before the expression public health was ever introduced, and what is the additional amount. How much of the additional amount has been put in there in order to make the reliefs or assistance or means available to the poor men at the bottom of the social pyramid. When I took charge of this office, Sir, I found any amount of literature dealing with bacteriological researches, with literature telling us how cholera is produced, what is the nature of the bacillus, how it can be killed, how it travels from village to village, and how it may go round the whole province in almost a few days before you know where it has gone or how it has worked out its havoc or to what extent it has levied its toll on humanity. This was all in the metropolis of the province. There was the whole panoply of literature, armoury, everything, but then if you go to the village there was the poor man dying in his death-bed attacked with cholera. He did not know anything of this bacillus. All that he knew about the Sarkar having any interest in cholera was that the chaukidar now and then visited the villages to send the news of epidemic to the thana and up to the magistrate and thence again to the civil surgeon. The poor man in the village did not know the existence of bacillus because the bacillus could not be seen with the naked eye. He was equally ignorant of the benevolent temperament of the civil surgeon in the district town because the civil surgeon never visited the village. Unfortunately I had to undertake my duties and start with my programme at a time when the atmosphere was charged with an unusual political propaganda called non-cooperation — a word so far unknown to us — a word which did not find a place in the current literature before it was introduced in India. The word means non-co-operation with everything but specially it came to mean 'do not co-operate with Government'. But then the Minister's position was this. Was there any man who had

Digitized by srujanika@gmail.com

co-operated with the people in the villages and of whom the villagers could say — here is the man who has been co-operating with us in order to give us relief against diseases and epidemics. The Minister could not point to anybody except the chaukidar — a person who is by no means a *persona grata* with the villagers. The first thing that struck me was to bring the people in touch with the Government, to make the people feel that there is a Government which feels for them, which provides for their relief, which is anxious to see that they are cured, that they are protected against the spread of cholera. That is the first thing that struck me. With a view to produce that feeling I did my best to visit the villages which were struck with epidemics. Not only this, I may inform the hon'ble members of this Council that I have sat down on the bed of a man struck with plague — the poor man died the following day. I have been warned by my friends, benevolent friends in the Council, I mean official friends, not to take the risk of doing these things but I thought that if I am being paid from the taxes paid by these dying men it was my duty, my sacred duty to him and to my God and sacred obligation to my office that I should take any amount of risk and at least convince the people that there is a Government that thinks of them and feels for them and is prepared to take any risk for them. That is the first work I took up. When I first came to my office, my hon'ble friend, Rai Bahadur Dvarika Nath asked me to define my policy. I am sorry I could not define it then; I am sorry I cannot define it now and I am sorry that I cannot leave a chart for my successor to make the steerage of the vessel of administration of this department simple and easy. All that I can leave is a chart showing rocks, shoals and the difficulties that lie in the way of the Minister. The first thing is to decide upon what is the easiest way, what is the cheapest method of making the reliefs available to the dying poor. Sir, permit me to say I have attended as many conferences, congresses and meetings as almost any of the gentlemen present here, but never has it been my delight, never has it been my fortune to hear a discussion on the question "how to improve the condition of the poor". I know I have been accused of labouring under a hallucination. This accusation was brought against me in this Council. People thought I laboured under a hallucination due to defective auricular appendages. Owing to this hallucination it is said I hear in my dreams even the poor

Digitized by srujanika@gmail.com

man's cry. I hope I shall remain always subject to those defects, and I hope those people in Government who are responsible for the condition of the poor will some day have a better set of ears. Well the question is what portion of the money that is given, Sir, actually reaches in its value those people in the rural areas whose condition, whose demands, whose wants were never discussed in the Council before this Reformed Council. If these people had attracted the attention of the Government, how is it that these questions of medical relief and sanitary improvement of the rural areas were not discussed before; how is it that we are now thinking of starting schools and colleges and training sanitary inspectors? Sir, I ask you and through you the hon'ble members of this Council to bear in mind that we are now preparing the machinery by which we can effectively give relief to the poor dumb millions.

Just at this time there is another difficulty — a difficulty has been raised on account of the peculiar attitude of the public towards the old *kaviraji* system. That system exists. Up to this day in the muffassal the men know the *kaviraj* only. I felt it my duty to make peace with the *kaviraj* to come to terms with him, to employ him as my agent, to make him appreciate the western system and to drive away from his mind the idea that cholera was the wrath of the goddess, but that instead it was the result of a bacillus. I undertook to educate them by bringing the *kavirajas* to this place and showing them the bacillus through the microscope and then sending them back to their villages, to teach the people how to save themselves from this epidemic. I told them, you should undertake to save your village because you depend upon their patronage; it is they who support you. They are your clientele.

Well, so far I have succeeded and I have got over a hundred men now who have been educated and instructed, and let me tell you, Sir, that up to this time these people have not demanded a single pice for their remuneration. There has been an instance in which I found a man sending information by telegram of the outbreak of an epidemic by spending his own money, and if there is money in the Financial Member's pocket, I will certainly come with a supplementary demand to give some remuneration to these men. I do not like to find fault with anybody

Digitized by srujanika@gmail.com

whatever. I say this is the position. Let me not be understood to say that I am finding fault with any person, with any system. The system has grown of itself. I was not there to check the growth of the system. The Minister has to take things as he finds them and it is his duty not to quarrel with the people, not to quarrel with the system, but to make the East and West join hands together in friendly co-operation and this is the only means of killing non-co-operation. I fear, my good friend Maulavi Mubarak Ali has misunderstood certain remarks which were made by the Hon'ble Finance Member. I have looked carefully into hon'ble member's speech, and all that he wanted to say was that if there was necessity for fresh taxation, he would have to come to the Council for it. So I think the remarks made may be due to his not hearing at the time or some such reasons. As regards the fresh taxation, I do not know any sect or any portion of the population better than I know the poor masses. Though born in a rich family I was a poor boy, and am still to this day the poorest man perhaps in this bench. Well I know the poor, but nobody is more willing to pay, whether in the shape of taxation or anything else than the poor man, if he is asked to pay for the public good, and more so he is always ready to pay if you give him the equivalent of what he pays. The provision in the budget is like the dark cloud with lightning flashes which strike the poet's imagination or which makes *Chatak pakhi* to rise from his Chamber and sing the praise of the clouds but till the clouds rain, and the rain reaches the soil yields a good crop, the poor man tilling the soil is not likely to sing the praise of the budget. The budget is the dark cloud. Let us see how much of it goes to pay this service and that service, and how much of it reaches actually the poor man who dies for want of medical relief.

I do not think I should say anything more than this that the department, which is called the nation building department, is in its infancy. It is necessary for the Minister to prepare the machinery by which and through which he can work the department and he has to be very careful because he might be disturbing the vested interests and systems which have their hoary traditions. These have to be adjusted. I know that I have been told — when trying to mix with the people — visiting poor men's villages — that I was not doing the duty of a Minister, that duty

Digitized by srujanika@gmail.com

should be to formulate policies, not to go into details, not to look into things which should be looked after by ordinary assistants. Well if I made a mistake there, I think His Majesty made a mistake in coming out to show his sympathy to the people, I think Lord Hardinge made a mistake when he visited the students in the hostels of Calcutta *incognito* in order to see what exactly the condition of the students was. I wish I had more time to mix among the people; I hope I shall have more time when the new Municipal Act is introduced, more time to visit those places and see that the right type of people are sent to the municipality. But whether I shall be able or not, whether I shall be here or not to see to those things is a question which I am not prepared to answer now owing to certain conditions. With these words, Sir, I resume my seat.

132. Bihar and Orissa Local Self-Government Bill*

The Hon'ble MR. MADHUSUDAN DAS: Sir, I beg to present the report of the Select Committee appointed on the Bihar and Orissa Local Self-Government Bill, and I beg to move that the Bill as reported by the Select Committee be taken into consideration.

The Hon'ble MR. MADHUSUDAN DAS†: Sir, I am thankful to the hon'ble member for having championed the cause of certain men who are absent here and whose interest he thinks have been prejudiced by this proposed amendment. It is necessary first to understand the circumstances or rather the condition of this peculiar district in order to appreciate the necessity for a differentiation of this tract of the country from other areas which are usually included in a district board. I am inclined to think that at least the strength of the opposition will abate a great deal when my good friend Babu Devaki Prashad Sinha understands the difference. There is no question of giving any importance to a particular class of people because they are favoured by nature with opulence or wealth. No such thing is at the root of this differentiation. The difference arises from the fact that an industry in a colliery is very different from a zamindari. In a zamindari both landlords and the raiyats pay cess. The raiyats

*Das introduced the bill on 22 February 1923. Ibid, pp. 623-24.
†Ibid, pp. 630-33.

Digitized by srujanika@gmail.com

have an abiding interest in the land and they have rights which are recognized by law, and they are of different degrees, whereas in a coal mining area the people who are engaged in working are coolies, who have no interest in the colliery, who do not pay any cess and the whole of the cess comes from the people who are either proprietors of the coalmines or who have a right to work the mines and what is more remarkable is this that while the zamindar thinks that his duty as regards public health is done as soon as he has paid his cess, the lessees of these mines have to take care and provide for the good health, good lodging and every comfort of these coolies for unless they keep them in good health and good working condition their work suffers. If you do not allow the persons who are interested in working the collieries, to control the public health of the mining area the whole working of the mines must collapse, because the coolies will walk away or be carried away by plague, cholera and other diseases. So when my learned friend Babu Devaki Prashad Sinha made a stirring appeal on behalf of the people — the poor people — whose interests are being, as he thinks, prejudiced at their back, he lost sight of the fact that those people, who are interested, work as day-labourers. The lessees of the mines have been obliged to introduce Jharia water works for the convenience, for the public health of the coolies working. This has been at an immense cost. These circumstances differentiate these mining areas from ordinary zamindari estates. Then there is another point. Dhanbad is but a subdivision; Manbhum is the name of the district and the district headquarters is at Purulia. It is in Purulia they have the district board, and the district board sits there and most of the men who are interested as members of the district board are residents of Purulia. The district board must have its headquarters in the headquarters of the district whereas Dhanbad which is now growing to be very important on account of the mining industry there, yields the largest income to the district board. So, how do matters stand ? The matters stand thus, that an area, which is only under a local board, has the control of the largest income — nine-tenths of the income — of the whole district, whereas the district board, which yields only one-tenth, has under the law as it stands now the control of the whole income. The members of the local board who pay nine-tenths of the cess have no control whereas the district board, which does not pay any appreciable

Digitized by srujanika@gmail.com

portion of this sum, has the control. The district board has the district engineer at Purulia, the local board cannot use his services. These difficulties presented themselves for some time. First of all a suggestion was made that it would be a good thing to convert Dhanbad into a separate district. There were difficulties in the way of effecting this. How to secure justice to Dhanbad is the question and it was suggested that we must raise the status of this local board and give it a special status so that it might look after its own interest and might have an adequate control proportionate to the amount of cess it paid. How to effect this is the question. The question has been under discussion for some time. When Mr. Hallett said that he had the consent of the people interested to the proposal now before Council he simply stated a fact. I have talked over the matter with Mr. Pattinson . . .

The Hon'ble MR. MADHUSUDAN DAS: So, Sir, these are the present difficulties; and the state of things in the area is different, and the difference to which I have invited the attention of the Council will make it clear that this is an area which ought to have a different treatment. As to whether this different treatment can be provided for in the Bill, I have to mention that we have thought over the matter and we thought that this could not be done in the Bill. The difference was too great. Consequently we decided to have a separate Bill. That is how the matter stands, and if this is not accepted now, then the result of this will be that this Council will be driven to the necessity of changing certain portions of the Bill so as to fit in with the peculiar circumstances of the area, and the hon'ble members have to decide which is a better and more expedient method — whether it is better to have a separate Bill, or to make changes in the present Bill, so as to take in an area which is different from the other areas, or, in other words, if I put the question — the question should take this form — whether you should keep out and treat differently a question which is heterogeneous or put a heterogeneous matter into a homogeneous group and thereby disturb the group itself. That is a simple question and I hope I have made things clear to the hon'ble members. But still I shall be very glad to answer any question relating to the matter if any hon'ble member wants further information.

Digitized by srujanika@gmail.com

The Hon'ble MR. MADHUSUDAN DAS: It was not discussed in the Local Self-Government Conference as to whether any particular area has different conditions so as to call for a different treatment. The fact is that the Local Self-Government Conference discussed only and mainly this question — how can the transfer of the responsibility of Local Self-Government from official hands be effected, so that the responsibility might rest with the non-officials. This was the main point that was discussed. As regards the details of administration there was no discussion. The Conference did not discuss whether a particular scheme of administration will suit the whole province, or it will be necessary to adjust in certain cases the administration, so as to fit in with special circumstances or conditions existing in a certain area.

132(A). The Bihar and Orissa Local Self-Government Bill*

The Hon'ble MR. MADHUSUDAN DAS: Sir, at this stage of the discussion I may be permitted, by way of what I am inclined to call a personal explanation — for want of a better expression — to say a few words which would express my ideas more lucidly. I have an open mind on the subject and before other members speak, I should like to hear what they have to say with regard to certain points, still I have an open mind. First let me assure the hon'ble members that I should be the last person to deprive my countrymen of any rights, any powers to discharge responsibilities for which they are fit. The word 'fit' means, in my opinion, an expression of responsiveness. Responsibility of a person must have a corresponding responsiveness to discharge the responsibilities. Well, what has struck me as a point of difference between the municipality and the district board is this. First of all a municipality is always inhabited by a more advanced and educated class of people who are more or less familiar with the responsibilities of self-government, not only familiar theoretically but most of them have actually in practice administered the municipality. The second reason is that in a municipality the interests are, as it were, circumscribed within a smaller area. Interests refer to the persons who live there and the kind of interest they have.

*Ibid, pp. 648-49.

Digitized by srujanika@gmail.com

There are some kinds of interest which are to be found in a rural area which is not met in a municipal area, because municipal life means town life and people who are there generally go there for business and do not take the same interest in the local conditions of the people as they do in localities where their homes are or where their property is.

Then consequently I am inclined to think that we shall meet with less qualified men in rural areas— less qualified in the sense of wanting in practical experience in their administration of local institutions of this nature. That is one thing which weighs in my mind.

The Local Government means nobody other than your own Minister. He certainly would not deprive a particular district board of a non-official chairman when he finds people available to administer. He should be the last person to withhold any right from the people. Therefore it is provided the number of elected members shall not be less than three-fourth — it may be four-fifths, it may be nine-tenths but it supposes that we may come across some district boards where the minimum number of men available to undertake and able to administer is three-fourths. These are the points on which I like to hear the hon'ble members who desire a change, and let me assure them that I have an open mind and nothing is further from my mind that I should in any way restrain the powers of my countrymen and restrict, as it were, the opportunities they ought to have to administer their own affairs.

The Hon'ble MR. MADHUSUDAN DAS*: Sir, I am afraid I do not see the spirit of the amendment. The spirit is rather volatile. It is impossible, Sir, to foresee the different kinds of defects which may come up after an election. Caste and creed and commercial interests may combine in one person. One person might belong to a caste and also he might be representing a particular commercial interest, and then commercial interest in these days, when different industries are developing in this country, is very difficult to define, Government then having undertaken to nominate people cannot possibly keep out any particular class. And as for caste or creed, caste is very indefinite; creed is also growing in number and they are in

*Ibid, pp. 661-62.

Digitized by srujanika@gmail.com

themselves undefined words. Hindus and Muhammadans have been accepted on the religious basis and that is the basis of their differentiation. But to have these words 'castes and creeds' is dangerous. I would like to know if the hon'ble members have ever come across a creed which is called Alekha — a number of men whose creed is that they won't eat in a Brahmin's house, they won't eat in a Raja's house, they won't eat in a *dhobi's* house, they won't eat in a barber's house, but they would eat in a *mehtar's* house. They believe in one God and don't believe in any idol, and never put on any clothes. I do not know how far the spirit of non-co-operation has been with them. It is not wise to talk of creed in legislation, I cannot undertake to accept that. I suppose the great factor, the new element is that you have got a Minister. Government does mean now the Minister, these nominations should not be made by the Magistrate or the Commissioner, a person, whom you fear may be influenced by visits of some people and by *salaams* of some people, but you will have the Minister and certainly you ought to trust him. But as you say you cannot trust the Minister, then it is a very hopeless state of things for the people, and I do hope that I am not going to be landed on such an absurdly disappointing state of things.

132(B). The Bihar and Orissa Local Self-Government (Amendment) Bill*

The Hon'ble MR. MADHUSUDAN DAS: I want to make it plain that it is not to include men or extend the right of being members of district boards to such men, who have no interest in rural areas. That is not the object, but on the contrary it is to provide a guard against the possibility of excluding such men as have interests in the rural areas, but might be residing within a municipality. Their interest is really attached to the rural areas, but the men live during the greater portion of the year in a municipality. They have got zamindaris, *naibs*, *kacharis*, all in the rural area. In order to provide that such men be not excluded because they live in a municipality, these words have been put in.

The general difficulty is that territorially a municipality is not within the jurisdiction of the Local Self-Government Act.

*Ibid, pp. 677-78.

Digitized by srujanika@gmail.com

To guard against the exclusion of men owning property within the rural areas on the ground of their residing within a municipality this provision was made. As the Secretary said, we shall make this clear in the rules. It will be made plain that the man must have interests qualifying him for a voter. To be a voter he must have a voice. Voter means a man who has a voice, and unless a man has a voice he cannot be on a board.

The Hon'ble MR. MADHUSUDAN DAS*: Sir, In order to be of some help to the hon'ble members who might take part in the debate on what I consider to be an important question, I may be permitted just to invite the attention of the hon'ble members to certain aspects of the question. It is very easy to look at a subject from its theoretical, speculative, or deliberative point of view. What takes up a few minutes to discuss may very often result in a resolution which when worked out in practice in all the details might be an enormous thing. We must not forget that hitherto the district boards have been administered by district officers. The district officer was in a position to command an authority which a non-official chairman is not expected to have. He had the police at his back and call, he had the influence of his official position. In place of that man you will have a non-official chairman. Is this not a very difficult work for a non-official? Very often you will find it difficult to get a man willing to undertake this work. A man will have to be coaxed perhaps to take the responsibility. The chairman has to travel in the district, he has to give a lot of his time and it requires a good deal of sacrifice in many ways. He has to learn by experience: the most honest man, the most earnest patriot perhaps might make mistakes in the discharge of the duties of an office which had hitherto been in the hands and under the control of an officer. He is bound to make mistakes and it is by mistakes that all men learn, even nations learn. Now, at this time to appoint a person who would be criticised at every meeting will be really a great discouragement to any person to come forward and take up the work; and not only that, but when he does take up the work he might make mistakes; the man who presides judges him by the results of his work as they appear in paper

*Ibid, pp. 685-87.

Digitized by srujanika@gmail.com

and ink, which do not convey a proper idea of the difficulties and magnitude of the work done. The chairman has to tour round in sunshine and in rain and all that he gets in return for all this is president's remarks: "He did not do his work properly; why did he not go to this place and that place".

The Hon'ble MR. MADHUSUDAN DAS: Yes, you do not know perhaps that the chairman has to do a lot of touring. And I know the case of a chairman who has been doing so much touring that the Commissioner had to write that he did not know any Magistrate who has seen the villages which he had seen. I know a chairman has to tour or else he cannot do his duty. I was a vice-chairman for six years and I had to do touring for two months and that without travelling allowance. You must make things attractive to the people. Even if you have to take a donkey to do a work, you have to give him a little grass to tempt him. You want an intelligent man to make sacrifices for the district board. I know my friend's (the Kumar of Surajpura) brother is doing excellent work in the district board of Shahabad. If a man like that is told that he should not have done this thing and that thing he would not like to have critics. This is not the stage and this is not the time to install critics.

I beg of you, I, entreat you, not to make a serious mistake, do not think that the chairman's duties can be easily done. They require very broad shoulders, a very earnest and patriotic soul to take up the work now. You want this type of men, but if you appoint critics over them, you will not get the right type of men. I hope the hon'ble members will take into consideration the practical side, the feasible aspect of the thing. Then a municipality is very different. A municipality is a small area; in most municipalities we have had a non-official chairman. There you have got an already organized non-official organization. Here you have to do the whole thing. Then I am told here in this Council Chamber by hon'ble members that we cannot get men to come forward to vote for non-official chairmen. They have not got the courage. This is a sad account of the state of things, state of the society of my own countrymen and their unwillingness to shoulder the responsibility. It would be a sad day if we at this stage begin the work with a critical spirit and find fault with people. You must take for

Digitized by srujanika@gmail.com

granted that there will be mistakes and we will make mistakes and we will build our reputation on those mistakes and actually make a new Rome on its ruins.

The Hon'ble MR. MADHUSUDAN DAS: That is what the vice-chairman does. The president is only a critic.

The Hon'ble MR. MADHUSUDAN DAS*: Sir, I come to the last few sentences of the hon'ble mover of this amendment. He says that the provision in the Municipal Act is just the same as the amendment which is put forward. But it is just the reverse. His amendment makes it obligatory on every district board to have a president, whereas the Municipal Act says you may not have a President. It lies with the Government to exempt such municipalities as they wish from the operation of this provision.

The Hon'ble MR. MADHUSUDAN DAS: Provided that it is not excepted.

The Hon'ble MR. MADHUSUDAN DAS: How would it do if we say that the Local Government may specify the district boards which would have the power necessary to appoint a president?

The Hon'ble MR. MADHUSUDAN DAS: No, I cannot accept anything, because this is a thing which I feel, after consulting the Secretary, cannot be accepted without consulting the district boards. Properly speaking the district boards have not been consulted. How the idea of having a president over a chairman will be acceptable to them I cannot say. As it is I cannot take the responsibility, without having consulted the district boards, to state that a president on top of the Chairman would be acceptable to most of them.

We are talking a good deal of patriotism. One hon'ble member said here why should not the chairman be prepared to hear criticism as the Hon'ble Minister stands, with a tortoise shell on his back, against all criticisms. There are people who talk of philosophy here. It is not a question of philosophy. The question is a practical one: how many patriots have we got now, willing to serve as chairman with a president over their heads.

The Hon'ble MR. MADHUSUDAN DAS: No. Some municipalities were consulted through their ex-chairmen and vice-chairmen.

*Ibid, pp. 696-99.

Digitized by srujanika@gmail.com

But there is nobody here who has been a chairman of the district board.

It is not a question of patriotism; it is a question of actual practice, day after day, month after month, in attending to daily ordinary duties of an official life. Patriotism is all very bright, when it sprinkles in a speech in the Legislative Council or in the town-hall. (*A Voice*: "Or even in a minister") Even in a Minister and more so in a local Demosthenes. But when it comes really to practical work, official work of a voluminous character and of supervising the work of other men, the work of other men which costs the district board sometime ten lakhs a year, and when in the beginning of this system of working we are told there will be a president to check the work of the chairman, the patriotism which you see in Council speeches will not last. (*A voice*: "why not?") Who will undertake to do this work? (*A voice*: "I will") Well, you will never get a chance to do it.

The question is, have you had a chance of doing the work; have you any experience? You have been the Demosthenes of this Council. You have been in the district board. Why did you not become a chairman of the district board, and why did you not become a vice-chairman of the district board and then you would have been in a position to give us the valuable experience you had acquired then?

Then this is a question as to whether we should accept that kind of patriot who has been described here at the commencement of this local self-government. I do not therefore feel myself justified in accepting the amendment, because I have not had a chance of consulting men who are chairmen of the district boards. There is my friend, Mr. Nemai Chandra Mitter, there is my friend the Raja of Surajpura. I have heard from all accounts that Mr. Mitter is the best chairman, he has made ample sacrifices, he has given up his practice. He resigned his seat in the Legislative Assembly. He goes about touring. (*A voice*: "At the age of 70") If he does that at the age of 70, so much the better.

I decline, Sir, to be interrupted in this way. The question is this whether we have got such patriots who would go round the country to preach to the people to become such patriots,

Digitized by srujanika@gmail.com

so that they may become members of the district boards and undertake such duties. These are the reasons why I object to this amendment and I leave it to the House to decide it one way or the other.

The Hon'ble MR. MADHUSUDAN DAS: No, I do not want to keep it in abeyance.

The Hon'ble MR. MADHUSUDAN DAS*: Sir, exception has been taken to this amendment, because it is apprehended that some Government servant, who wishes to have the control over the district board in a case where the district board fails to elect a chairman, might, with the object of benefiting himself, arrange for such failure on the part of the district board. Now what are the different stages which must precede such failure to elect their chairman? First of all there are a number of members of district boards; a large percentage of these members are elected; we are required to suppose that they are all so much under the influence of the district magistrate that they will not avail themselves of the opportunity of helping in the progress of local self-government, because the magistrate wishes to have the control of the local self-government and thus stop the wheels of the local self-government. Now what do we suppose? There are a lot of traitors to the interest of the country and they have been elected by the country. Do you think that this is likely to happen? Why should these men come in, why should they take the trouble of standing for election, unless they have at heart, the promotion of the principles of the local self-government? Having secured their election, having taken their seat in the board, they get communicated to them the wishes of the District Magistrate or some official that he wants to be benefited by a failure of the district board to elect a chairman, and therefore these men decline to exercise their power to elect a chairman. Now if this is the state of the country — I do not believe it is so — but if we suppose that there is such a state of things how can you stop the calamity to the country? It will be said that if you make it impossible for the District Magistrate to be appointed as chairman, this can be done. The law should be made so that a non-official can be appointed a chairman. Now, who would be that

*Ibid, pp. 715-18.

Digitized by srujanika@gmail.com

non-official? It cannot be one of the members of the district board, because we are dealing with a state when the district board fails to elect a chairman, because there is no one amongst them competent or willing to undertake the responsibility. When the district board fails to elect a chairman, we must suppose either nobody is willing to take the responsibility or the members of the district board think that nobody is competent. Consequently Government cannot appoint one of these people as chairman, because to do that would be really to over-rule the decision of the district board. It has been said that when such a thing occurs, then it will be the time for legislating. Now, when they fail to elect a chairman, what has the Government to do then? Who is to take charge of the property of the district board? (*Voices*: "Nominated members") Government must come in. Unless it be said that the members of the district boards should meet together and divide the property amongst themselves. (*A Voice*: "or give it to the Ministers") There is no chance of the Minister's getting it.

Well, legislation is made always to provide against contingencies in future. We do not provide for things when the danger arrives. We do not wait so long. When a man gets married, he perhaps thinks of providing for his wife. That is not postponed to the time when a man lies in his death-bed. "We must wait" is the advice given to us. Wait where? Wait in a country where we are required to suppose that the people are so much under the influence of an official or are so weak and irresponsible, that they will not exercise their power. Wait, till the thing happens in a country where this is the apprehension. Well, as for the Minister it was said the poor Minister is supposed to be everybody's servant. He must serve. He must listen to the arguments of individual members, but must not consult his Secretary. (*A voice*: "Must serve the Secretary") Well, he is willing to serve anybody, but not prepared to subserve anybody's purposes. (*A voice*: "Excepting the Secretary") A proposal was made, I heard it, and I said well, I cannot see the wisdom in it. Then Mr. Hallett pointed out to me another aspect of the thing. Then after conversation with Mr. Hallett I said I cannot accept it because I have not consulted the district boards. The Minister is to accept any thing as any hon'ble member suggests it. If some hon'ble

Digitized by srujanika@gmail.com

member says "Well you must nominate my brother to the district board" and if the district officer does not recommend him and the Minister nominates a more useful man the Minister is run down because he is not a popular Minister. So if the Minister does not comply with the request of digging a well somewhere, he is not popular — that means he must have to attend to individual wishes. Well, if you want, let me tell you in right earnest that if the country wants to develop a responsible Government, they must trust their Ministers. If they cannot trust their Ministers let one-third of the elected members send a requisition to him saying "We have no confidence in you". You will find the resignation here within six hours. The best thing is that you must trust your Ministers. You can get rid of them within six hours. No man would care to continue in his office if at least one-third of the elected members do not have any confidence in him. This is just the principle we have introduced in the Municipal Act. If some commissioners do not attend to the wants and wishes of the voters the voters can get rid of them and we have provided for this. You cannot have anything better than that. If you cannot trust your Minister you cannot develop responsible Government. I am quite willing to undertake that in the first instance the Local Government will try to have non-official chairman appointed. But when arises the need of appointing a non-official? It comes when all members of the board decline to take the responsibilities of the chairman. This is the state of the country. So all that can be said is that the local Government will try to do their best. With these words I resume my seat.

The Hon'ble MR. MADHUSUDAN DAS*: Sir, I think there is an unjustifiable suspicion of the exercise of power by the District Magistrate or the Commissioner over the affairs of municipalities and district boards. What does the examination of the budget mean? Just picture to your imagination the budgets of these municipalities and district boards which contain accounts of lakhs and lakhs of rupees to be spent on different projects — commencing with a project which costs Rs. 50 and up to projects which cost five lakhs of rupees, containing accounts, plans and designs prepared by engineers, medical men — all these come up to the Secretariat. What does the

*Ibid, pp. 753-56.

Digitized by srujanika@gmail.com

examination mean, what should the nature of the examination mean if it is to be an examination to some purpose — to help the administration of these local bodies?

The Hon'ble MR. MADHUSUDAN DAS: If all these are examined, should there be no second examination of the budget? If that be the position that is taken up, then there need not be any examination by the Local Government in the Secretariat or anywhere. Are the hon'ble members prepared to go the length of saying that these budgets of the districts boards should not be examined for any purpose by any authority because they have been examined by the district engineer? Is the whole responsibility to be transferred to a district engineer who is a mere employee of the district board?

The Hon'ble MR. MADHUSUDAN DAS: Well, that is a question which the hon'ble members must make up their minds. They say that when they have been examined by the district engineer of the district board, no further examination is necessary.

The Hon'ble MR. MADHUSUDAN DAS: Well, a few hours later, perhaps we will have to take up the question for discussion whether the district board must provide 25 per cent of its income for such and such purpose, 30 per cent of its income for such and such purpose, etc., who is to decide whether this is done? The Minister here gets a telegram, as I got one last night, that such and such road is unfit for use altogether. If the district boards are to be allowed supreme power, so that there should be no interference with their exercise of this power, are we to understand that neither the Local Government nor any body else on earth will have the power to see whether they are doing their work or not?

The Hon'ble MR. MADHUSUDAN DAS: Then Sir, unless I hear a distinct expression of opinion from the hon'ble members of this House to the effect that no sort of control, no sort of supervision or no control should be exercised by any authority over the district boards, I shall proceed on the presumption that some authority must be vested with the power to supervise their work to some extent. As to what would be the nature of the supervision that is to be decided afterwards according to the kind of work that the district boards undertake to do. Do the hon'ble members expect that they can ever have a

Digitized by srujanika@gmail.com

Minister who will personally examine all these budgets, and then pass his orders on them? He will have to entrust the work to a certain extent to the Secretariat. Perhaps the Secretary is a bureaucrat — he is an I.C.S. Should he be allowed access to the budget or not? Suppose the Secretary is a man who has been six months before serving as a District Magistrate, which is very often the case, unless we are to suppose that the Minister himself is to examine all these things, it will be necessary to have a separate establishment. The only question is whether even then if we had an establishment in the Secretariat, will it or will it not be necessary to send the budget down to the mufassal to the district itself, which district is dealt with in the budget in order to ascertain certain things, certain informations. Then I hope the hon'ble members do not wish that the Minister must himself go and verify these things. He must send it to somebody for certain information. The only objection has been the District Officer and the Commissioner. They should not be entrusted. Well, if this is the ground of suspicion, I am quite willing to put down anybody except the District Magistrate and the Commissioner. But then you must have an auditor in every district. You must have an audit department. Surely; if the things are to be put down properly there must be somebody to verify these. If you think that the Minister should not entrust this work to the Commissioner or to the District Magistrate, I am quite willing to accept the services of others, but there must be some people through whom the enquiries must be made.

The Hon'ble MR. MADHUSUDAN DAS: It must be, because the law says that the "budget estimate after it has been approved by the Board shall be submitted to the Local Government, which shall examine it with a view to see that (a) the estimate of income" and all that.

The Local Government, it has been said in the speeches, must be the Minister. The hon'ble members talk of delegation of authority in the sense that legislative authority is delegated to a person who is not a member of the Local Government. Now if you create an audit department, this power which you are conferring on the Local Government must be delegated, because you have to constitute certain powers, certain authorities which do not exist now. If you object to have the District

Digitized by srujanika@gmail.com

Magistrate and Commissioner, very good, let us exclude them, but you must have some sort of organization which does not exist now, because the work is now done by district officers, and somebody must be substituted, and if anybody is to be substituted, it means a delegation of authority.

I fear there is unnecessary suspicion — more than justifiable suspicion. A Local Self-Government Minister cannot write to the District Magistrate even of this nature, "will you kindly say whether such and such a bridge is really necessary to be constructed on such and such site" and get a reply from him. The question is whether this amendment, as it stands, gives any power to the authority to interfere with the budget. Surely I am in full sympathy with hon'ble members, if they want to guard jealously the powers of the district board. But the powers of the district board do not abate in the least if a person who is deputed to make an inquiry gives information, and on that information the Local Government comes to a decision.

133. The Budget — Voting of Demands for Grants: Salaries of Ministers*

The Hon'ble MR. MADHUSUDAN DAS: Sir, the hon'ble mover of the motion read out a portion of my speech which I had made in this Council last year about this time. He should have read out another portion which relates to the position of my brother-Minister on my left. Mr. P. K. Sen pointed out the injustice of applying my ideal of a Minister of Local Self-Government to the Hon'ble Minister of Education. I am sorry an attempt to perpetrate such an injustice has been done. I shall read out a portion of the speech in which I made it very clear that the considerations and reasons which made it necessary that the office of the Minister of Local Self-Government should be honorary do not apply to the Minister of Education.

The passage runs thus:

But my reasons for making the office of the Minister of Self-Government honorary do not apply to the Minister of

*Ibid, pp. 962-67.
This controversy ultimately led to the resignation of Das as Minister of Local Self-Government.

Digitized by srujanika@gmail.com

Education. He has no honorary workers to help him. He is the head of a salaried staff and it is but meet that his office should have the present emoluments which are by no means out of proportion to the nature of his responsibilities.

When the hon'ble mover of the motion read out a portion of the speech which I delivered last year and when he came to that portion of my speech which referred to sacrifice in the service of one's country, I noticed a laughter of ridicule. I was not surprised at all at this ridicule. People who come out of a foreign country and receive emoluments not only for services rendered, but also for having left their mother-country, are not likely to appreciate patriotic feelings of Indians to raise up self-governing institutions. Men who leave their country to earn a salary and pension are not likely, in a large percentage of cases, unless they grow to a mature ripe age, to experience the impulse of patriotic feelings. But I should not be doing justice to the service if I did not mention that there are noble exceptions to this rule. A member of the Indian Civil Service who rose to be the ruler of an important province, in a letter written to an Indian, said, "Though I did not see eye to eye with you, though I did not approve of your methods, I have always considered you a true patriot and that is the highest compliment one can pay to a public man". The author of this letter now occupies an important position in the India Office. I feel happy in the contemplation that this laughter of ridicule did not reach my esteemed friend the Leader of the House or Mr. Morshead. I was not surprised at this laughter. But it pained me very much that the occasion for this merriment was given by my countryman.

The Hon'ble MR. MADHUSUDAN DAS: If my esteemed friend the Leader of the House says so, I make an unqualified apology for the mistake and I unreservedly withdraw what I said in regard to that matter.

The Hon'ble MR. MADHUSUDAN DAS: That part also of course is withdrawn and I certainly am glad to make an apology to my countryman.

The hon'ble mover of the motion wanted to know where the scheme with an honorary Minister of Local Self-Government

Digitized by srujanika@gmail.com

was. The first step necessary was the substitution of an honorary Minister of Local Self-Government for a paid Minister. The Hon'ble Leader of the House read out Section 52 of the statute relating to the Minister. The statute empowers the Governor to appoint his Minister, and it lays down the amount of salary which such Minister should be paid. Reading the statute, any man with a grain of sense shall see that it rests with the Governor to decide whether he would take an honorary Minister. If the Governor did not accept my reasons for making the office of Minister of Self-Government honorary, if His Excellency did not accept my suggestion for making my office honorary, it was not possible for me to work out a scheme. It is not within the power of any one here to present a scheme in this Council without the sanction of His Excellency the Governor. Whether I have done my part of the work, whether I offered to serve honorary or not, my critics would do well to refer to His Excellency the Governor and they may also refer to His Excellency the Viceroy. The correspondence on the subject between me and His Excellency I am bound to treat as confidential: but I shall be thankful to the hon'ble members who are my critics — and in this case all three of them are expert lawyers — if they would kindly accept my *vakalatnama* and plead before His Excellency on the wisdom of having an honorary Minister. If they are anxious that I should vacate this office, it will give them an opportunity to discuss the question of my successor. I can assure my critics that after all that has transpired during the last few days, I shall be glad to be relieved of the responsibilities of this office. As a Minister I am bound to be loyal to the Governor and I must hold this office "during his pleasure". These are the words of the statute. I cannot walk out of my office whenever I like. I cannot secure expulsion by being disloyal and unmanageable.

My proposal that my office should be honorary is the pivot on which the argument for reduction of the salary stands. This is an *orgumentum ad hominem*. Therefore the application of this argument to my brother on my left is absolutely unjustified. The argument as put forward by the hon'ble mover is that as I offered to work honorary, therefore I should accept a lower salary which involves a smaller amount of sacrifice. I

Digitized by srujanika@gmail.com

offered to sacrifice Rs. 5,000, and why should I object to sacrifice one thousand? Sacrifice has its compensation in the satisfaction which it brings to the man who makes the sacrifice. A sacrifice must be voluntary in order to deserve the name; the reward of sacrifice must be of a kind which brings satisfaction to the author of the sacrifice. That satisfaction must be his and not the satisfaction of another person. The mother's sacrifice for her offspring is the brightest illustration of sacrifice. She builds the body of her child with her blood, but do you think it will give her satisfaction if her blood were transfused into another person's sick child in order to save such sick child? Do you think the poor goat that is sacrificed before the Goddess Kali feels any satisfaction in being sacrificed? The man who sacrifices the poor goat enjoys the satisfaction. The poor goat dies, but the man who arranges for its being beheaded pleases the Goddess Kali. Babu Ganes Datta Singh is in the position of the man who offers the goat as sacrifice. He wants to force the Ministers to a sacrifice and expects to secure to himself the credit of the sacrifice. I am ready to sacrifice the whole salary, if I am allowed to serve my country and my King in a way that will bring satisfaction to me, but I am not prepared to make a sacrifice of one pice to give satisfaction to the mover of the motion or his colleagues in this campaign against the Ministers. The idea of asking the Ministers to accept a reduced pay with a vote of censure hanging over their heads like a Damocles' sword is extremely revolting to any one having a sense of self-respect.

I beg to point out that the present condition of India is due to a hasty imitation of western institutions without stopping to note the points of difference between the two countries: hon'ble members may remember, and our illustrious ex-President may remember, that in the early part of the life of the present Council I objected to the use of the word "House" in referring to the Council Chamber, but the word is being used. It made us feel that it is a replica of the House of Commons. The result is that we have come to adopt words used in Parliament and imagine that we have the same powers as the House of Commons. I remember an incident where some children engaged in play tried to imitate a court of justice: one became a judge, the second one was made the accused and the other

Digitized by srujanika@gmail.com

children were *Chaprasies*. The judge ordered the accused to be hanged. The *Chaprasies* hanged him on the branch of a tree near by, and the poor boy died. This is the result of imitating institutions without trying to differentiate. Is this a House? Is this the Ministerial bench? How many Ministers are there? Do Secretaries find a place in the House of Commons? Is the Leader of the House the Prime Minister? In England the King appoints the Prime Minister and the Prime Minister forms a ministry. Who are the Secretaries? Do they not represent the service which has been responsible for the bureaucratic administration in the past? When I vacate my office, will my Secretary go out with me? We forget we are in a Dyarchy. If you compare Dyarchy to a musical instrument, the Minister is playing on it, but the instrument is held by the Secretary who belongs to a reserved service. A man died leaving a cow which was to be divided by his two sons. The cow could not be killed, so the best way they adopted to divide the cow was that the fore part of the animal was given to one brother and the hind part to the other. The result was that one had to feed the animal while the other got the milk.

Ministers are engaged in the nation-building departments, agriculture, public health, etc., while the milk goes to the Hon'ble Members of the Executive Council who collect the revenue. I could speak for hours on the difficult position of the Minister, but the illustration given will give some idea of his difficulties. Hon'ble members who never saw the House of Commons and consequently never watched the proceedings of that majestic House at a single sitting, have learnt some words used there and have adopted them here without stopping to inquire whether they are applicable to the proceedings of this Council. I do not know whether to admire the absence of humour or the audacity which the thoughtless use of the word 'resignation' has given proof of.....

The Hon'ble MR. MADHUSUDAN DAS: I certainly bow to your ruling. So, my position is that I tried to show the danger we have arrived at in adopting expressions which are used in Parliament, but you have ruled that they are not very relevant. My submission is that I am willing to work as honorary Minister, and I am not prepared to accept a reduced pay by a single pice because that means that at the end of two years

Digitized by srujanika@gmail.com

my services have been discounted by the Council, and if the Council says have I deserve that discount, let them pass a vote of censure and I will go out much more pleased than I would be if I have to accept a reduction of this kind.

The Hon'ble MR. MADHUSUDAN DAS: That was, Sir, at my request. I asked Lord Sinha that the official members should not vote, as I liked to be appointed by the votes of my own countrymen.

The Hon'ble MR. MADHUSUDAN DAS: Sir, what about the motion for censure of the Ministers?

The Hon'ble MR. MADHUSUDAN DAS: What I said was this: I offered to His Excellency to work as honorary Minister of Local Self-Government, but it entirely rests with His Excellency as to whether he would accept an honorary Minister or not. I also said further that I am bound to treat as confidential the correspondence on the subject between me and His Excellency.

Digitized by srujanika@gmail.com

APPENDIX I

*[The correspondence of Das with the Governor are published here to give a correct picture of the situation which led to his resignation.]**

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR

Resignation of the Hon'ble Mr. Madhusudan Das

The Hon'ble PRESIDENT: I have to read to the Council a message which I have received from His Excellency the Governor. The message runs as follows:

"I have to inform the Council that I received this morning the following letter from the Hon'ble Mr. Madhusudan Das, Minister in the Local Self-Government Department."

PATNA
8th March 1923

Your Excellency,

Your excellency has, I am sure, been informed of the result of the motions about Minister's salary, and a copy of my speech must have been submitted to Your Excellency.

I was obliged to accept the proposal of a reduced pay because I found that my brother Minister was willing to accept the proposal and he felt that I was an impediment in his way. In order to improve his position I agreed to accept the proposal. My brother's position being now secure, I beg to resign my office as Minister of Local Self-Government. I still believe that the office ought to be honorary, but as Your Excellency rejected my proposal on the subject I do not think I should continue in this office.

*Ibid, pp. 1056-64.

Digitized by srujanika@gmail.com

I solicit the favour of your relieving me of my duties by making the necessary arrangements, and I shall in the meantime carry on the duties of the office.

Permit me to express my sincere gratitude to you for the kind and cool way in which you considered my views even when I had the misfortune to disagree with you. My humble services as a non-official will always be at your command should you require them in the interests of the country over which God has appointed you to rule.

I remain
Your Excellency's most obedient servant
(Sd) M. S. DAS

To that letter I have this morning replied in the following terms:

The 9th March 1923

Dear Mr. Das,

It is with much regret that I received this morning your letter of yesterday's date tendering your resignation of the office of Minister in charge of the Local Self-Government Department. In the circumstances I have no alternative but to accept it.

You say that you "still believe the office ought to be honorary, but as Your Excellency rejected my proposal on the subject I do not think I should continue in this office".

I think, however, you will bear me out that in your letter of the 7th-8th February 1923, which is the only communication I have received from you on the subject, the actual suggestion made by you was you were "willing to work honorary provided" you were "allowed to earn a living by practising as a vakil".

As it seems to me to be desirable that the precise circumstances should be known to the public, I am, with your consent, communicating the present and the previous correspondence to the Legislative Council, in connection with the message announcing your resignation.

Digitized by srujanika@gmail.com

Allow me to thank you cordially for the time and labour given by you in your capacity of Minister, as also for the offer of your continued assistance as a private individual should the need arise.

Yours sincerely
(Sd) H. WHEELER

I think it desirable that, in order that no misunderstanding should exist in the mind of the Council or the public, the previous correspondence that passed between myself and the Hon'ble Mr. Das should also be communicated, and to this the latter has assented. This is all the more necessary since I find that in the course of a speech delivered yesterday in the Council the Hon'ble Mr. Das remarked as follows:

"The hon'ble mover of the motion wanted to know where the scheme with an honorary Minister of Local Self-Government was. The first step necessary was the substitution of an honorary Minister of Local Self-Government for a paid Minister. The Hon'ble Leader of the House read out section 52 of the Statute relating to the Ministers. The statute empowers the Governor to appoint his Minister and it lays down the amount of salary such Minister should be paid. Reading the statute, any man will see that it rests with the Governor to decide whether he would take an honorary Minister. If the Governor did not accept my reasons for making the office of Minister of Self-Government honorary, if His Excellency did not accept my suggestion for making my office honorary, it would not be possible for me to work out a scheme. It is not within the power of any one here to present a scheme in this Council without the sanction of His Excellency the Governor. Whether I have done my part of the work, whether I offered to serve honorary or not, my critics would do well to refer to His Excellency the Viceroy. The correspondence on the subject between me and His Excellency I am bound to treat as confidential, but I shall be thankful to the hon'ble members who are my critics — and in this case all three of them are expert lawyers, if they would kindly accept my *vakalatnama* and plead before His Excellency on the wisdom of having an honorary Minister. If they are anxious that I should vacate

Digitized by srujanika@gmail.com

this office, it will give them an opportunity to discuss the question of my successor. I can assure my critics that after all that has transpired during the last few days, I shall be glad to be relieved of the responsibilities of this office. As a Minister I am bound to be loyal to the Governor and I must hold this office during his pleasure. These are the words of the Statute. I cannot walk out of my office whenever I like. I cannot secure expulsion by being disloyal and unmanageable."

The inference which, I take it, is to be drawn from this speech is that the Hon'ble Mr. Das had suggested to me that the office of Minister in charge of Local Self-Government should be made an honorary one, and that I had declined to accept that suggestion.

In this connection the following extract from a speech delivered by the Hon'ble Mr. Das in the Legislative Council on the 21st February 1922 is relevant:

"In an organization in which all the workers are honorary a salaried Minister mars the symmetry and harmony of the organization. The office of the Minister of Local Self-Government ought to be honorary..... To convert this office into an honorary one, the present official machinery needs addition and readjustment. I do not wish to disturb the present arrangement, but it is my intention to move His Excellency to let me have the services of one or two extra officials for whose pay I shall be responsible, I hope, when this Council meets next year to discuss the budget, to be able (God helping) to place before the Council a scheme in which an honorary Minister of Local Self-Government finds a place."

I assumed charge of the office of Governor of this province on the 12th April 1922. The first communication which I received from the Hon'ble Mr. Das on the subject of the status of his office is dated the 7th-8th February 1923, and ran as follows:

PATNA
The 7th-8th February 1923

Your Excellency,

I beg to submit the following for Your Excellency's perusal and favourable consideration.

Digitized by srujanika@gmail.com

The success of the reforms must be decided by the nature of administration by the local bodies. Medical relief, sanitation, communications and the education of masses are subjects the administration where of has been transferred to municipal and district boards. The importance of these subjects can be gauged by imagining for a moment the abolition of these departments during the trial period of the reforms. The new Municipal Act makes the municipal boards wholly responsible for the Municipal administration. The Local Self-Government Act now before the Council will make the district boards responsible for the administration of the rural areas. The people have not developed a due sense of responsibility necessary for efficient administration of the subjects entrusted to them. The members of these local bodies are honorary workers. Honorary office means sacrifice from a sense of duty to the King and the Country. These local bodies when constituted under the new Act will need constant guidance and advice of the Minister of Local Self-Government. In order that the Minister might exercise an influence over the honorary workers throughout the province, it is necessary that he should be an honorary worker. A salaried official over the head of thousands of honorary workers is an anomaly. He cannot command their respect and consequently his appeals to the patriotic and benevolent feelings of the people will make the scheme a subject of ridicule to the people. To ensure the success of the reforms it is necessary that the Minister of Local Self-Government should not draw any salary, but should be an honorary worker.

In India personal influence is an important factor when we have to secure the active sympathy and co-operation of the people. Personal influence is earned by working without remuneration. Gandhi's activities in India have proved to demonstrate the value of sacrifice as the price of personal influence.

The non-co-operation movement is a great impediment to the advancement of the reforms. The non-co-operators succeeded in spreading a network of a mischievous propaganda. The personal influence of a few men like Gandhi, C. R. Das is due to their sacrifice. We have to combat with this opposing force; a salaried Minister of Local Self-Government has no chance in this struggle. We must have men who are inspired by patriotic feelings;

Digitized by srujanika@gmail.com

our honorary workers in the local bodies are a valuable counter force, but a salaried Minister destroys the harmony and symmetry of the whole organization.

Hostile criticisms in the Legislative Council, in the press and elsewhere, regarding the salary of the Minister show that the public want an honorary Minister of Local Self-Government.

I am willing to work honorary provided I am allowed to earn a living by practising as a vakil.

I shall not allow my professional work to interfere with my duties as a Minister. If I had private means to keep me above the ordinary needs of life I would not have asked for permission to practise. I have been in public life for nearly forty years, and being the first graduate of the Oriya race, my public life meant financing all public movements. I gave a small portion of my time to my professional work as my public duties took the greater portion of my time.

There is nothing inconsistent in the idea of a practising lawyer being a Minister. There is precedent of a zamindar being a Member of the Executive Council. The Maharajadhiraj of Darbhanga was the first Indian Member of the Executive Council in the province. I saw in the papers the other day that the Raja of Mahmudabad has been appointed an honorary Member of the Executive Council of the United Provinces. A zamindar has to look after the affairs of his estate, he is a party to suits in courts and has to give evidence in court. If this is not considered derogatory to the prestige of an hon'ble member of Council, appearance for a party in court by a lawyer should not be considered in any degree derogatory to the prestige of a Minister.

The legal profession has always been considered honourable. The Provincial Governments and the Government of India have recruited members of their Executive Councils from the practising members of the Bar. Practising lawyers have been members both of the Provincial and Imperial Governments, and at the end of their service have reverted to professional practice. These precedents are a complete answer to objections to my proposal on the ground of loss of prestige.

Digitized by srujanika@gmail.com

A Member of the Executive Council is responsible for the administration of the reserved subjects. Law and order constitute the most important of the reserved subjects. There may be breach of the peace among the tenants of a zamindar Member of the Executive Council, or a zamindar Minister. These might occur while a zamindar is a member of the Government. Such a state of things would place the Government in an awkward position. Such difficulties cannot arise when legal profession is the means of livelihood of a member of Government whether he be a Member or a Minister.

Local self-government is a transferred subject. The responsibility of administration is transferred to the people. The Minister is an elected member of the Council. His appointment as a Minister creates a new relation with His Excellency the Governor, but the super-imposition of this relation does not relieve him of his responsibilities to the people and the Legislative Council which represents the interests of the people. Section 80B of the Government of India Act says that a Minister "shall not be deemed to be an official and a person shall not be deemed to accept office on appointment as a Minister".

Section 124 of the Government of India Act penalizes acts amounting to misdemeanours by persons holding office under the Crown in India. Clause 5 of the section prohibits the receipt of presents, but it exempts from such prohibition the fees paid or payable to barristers. This word barrister is meant to include other legal practitioners especially vakils practising in the High Courts.

I shall undertake not to absent myself from the meetings of Council. I shall not allow my professional engagements to interfere with my duties as a Minister. I shall consider my professional practice as a means of earning a living and if I have to reduce my comforts of ordinary life I would not mind it considering that this sacrifice will be more than amply rewarded by bringing the people in close touch with the Government and thus kill the spirit of non-co-operation and inspire a desire for co-operation with Government.

Many chairmen in municipal and district boards are practising lawyers. A practising lawyer as a Minister would lend harmony and symmetry to the scheme.

Digitized by srujanika@gmail.com

The duties of a Minister of Local Self-Government require a knowledge of law and medicine. The local bodies are manned largely by lawyers. In consequence questions involving interpretation of the provisions of the Municipal Act often come up for decision to the Minister. The new Municipal Act came into force on 1st January of the current year. Before the 15th of January one municipality passed a resolution which they thought was warranted by a certain section of the Act. The question came up to me for decision. I have received representations containing reference to Halsbury's laws of England. My knowledge of law and my study of medicine in early life have been of great help to me in the discharge of my present duties.

It might be necessary to take an additional hand in the Secretariat, but a discussion on this aspect should be taken up should Your Excellency decide on accepting my proposal.

I remain
Your Excellency's most obedient servant
(Sd) M. S. DAS

To that letter I replied on the 11th February 1923, in the following terms:

PATNA
The 11th February 1923

Dear Mr. Das,

I am in receipt of your letter of the 7th-8th instant, in which you give your reasons for suggesting that you are willing to work as Minister in an honorary capacity if allowed to earn your living by practising as a vakil. While not in agreement with the arguments which you urge in justification of such a course, I am afraid there are, to my mind, serious practical objections to it. I do not see how in practice you could combine these duties while doing justice to both or either. Secondly it appears to me to be an absolute impossibility that a Minister should appear as a legal practitioner in courts subordinate to the Government of which he is a member. I

Digitized by srujanika@gmail.com

know of no precedent for such a position. I will be happy to discuss the matter should you wish to do so, but I regret that I do not see my way to accept your proposition.

Yours sincerely
(Sd) H. WHEELER

The Hon'ble Mr. Das did not avail himself of my offer to discuss the question should he care to do so, and there the matter rested, so far as I was concerned, until the receipt of his letter of the 8th instant.

I need scarcely say that I have received the Hon'ble Minister's resignation with regret, but I feel that it is only right that it should be known that the offer of the Hon'ble Mr. Das as made to me was not unqualified, but was coupled with the condition that he should, while discharging the duties of Minister, be permitted to resume practice as a vakil, a condition which I felt it impossible to accept."

(Sd) H. WHEELER
Dated the 9th March 1923

Digitized by srujanika@gmail.com

Digitized by srujanika@gmail.com

EDITORS

Dr. N. K. Sahu, M.A., Ph.D., D. Litt., is the Vice-Chancellor of Sambalpur University. An eminent Scholar of Orissan history, he has a number of original works to his credit: *Buddhism in Orissa*, *Utkal University History of Orissa:* Vol. I, *Odia Jatir Itihas*, *History of Orissa Police*, etc. He is one of the Founding Members of the Utkal Pragati Sangha and its Vice-President.

Dr. P. K. Mishra, M.A., Ph.D., is Reader in the Post-graduate Department of History, Sambalpur University. He is the author of *First World War*, *Political History of Orissa*, 1900-1936, and coauthor of *History of England*, *Mustafa Kamal Pasha*, *Medieval India*, *World History*, and *History of Orissa*. As the Secretary of the Orissa History Congress (1978-81) he is the Managing Editor of the Journal of Orissan History.

Digitized by srujanika@gmail.com

About the Publishers

PRAGATI UTKAL SANGHA, established in 1958 by a group of progressive minded Oriya elite of Rourkela, has done commendable work in the Steel City in patronising Library, Public Reading Room, cultural functions, indoor and outdoor games, drama and music and Utkal Divas celebrations. It has installed one bronze statue of Madhusudan Das and instituted gold medals in the Universities of Berhampur and Sambalpur commemorating his name. The Sangha has extended financial help to poor meritorious students of the rural area and felicitated young men and women who have attained glories and eminence in the national level in sports, drama and music. The publication of the book *Madhusudan Das, the Legislator* is another creditable achievement of the Sangha. Their next venture is 'Madhusudan Das, the Leader' which will be published by 1982.

Pragati Utkal Sangha is a veritable source of inspiration for the Oriya-speaking people and the epitome of Oriya culture.

Printed at the Catholic Press, Ranchi, Bihar
Digitized by srujanika@gmail.com